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California Legislature

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CHAPTER 1132

An act to add Section 14275.1 to the Government Code, relating to the State Contract Act.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 14275.1 is added to the Government Code, to read:

14275.1. Notwithstanding the provisions of Section 14275, the estimate of cost may be approved by the director, which includes alternates contemplating additions to, or deletions from, the base bid, provided:

(a) Estimates are made for each contingency and, in the aggregate, such alternates do not exceed 10 percent of the estimated cost for the project;

(b) The available funds are at least sufficient to cover the filed estimate for the base project;

(c) The low bid is determined through adding or deducting alternates in listed numerical sequence; and

(d) The contract is awarded to the lowest bidder providing the lowest total costs for the base bid and the alternatives accepted.

CHAPTER 1133

An act to amend Sections 682, 683, 690.50, and 710 of, to add Chapter 2.5 (commencing with Section 723.010) to Title 9 of Part 2 of, and to repeal Sections 682.3 and 690.6 of, the Code of Civil Procedure, to add Section 26750 to the Government Code, to amend Section 300 of the Labor Code, and to amend Section 11489 of the Welfare and Institutions Code, relating to wage garnishment.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 682 of the Code of Civil Procedure is amended to read:

682. The writ of execution must be issued in the name of the people, sealed with the seal of the court, and subscribed by the clerk

or judge, and be directed to the sheriff, constable, or marshal, and it must intelligibly refer to the judgment, stating the court, the county, and in municipal and justice courts, the judicial district, where the judgment is entered, and if it be for money, the amount thereof, and the amount actually due thereon, and if made payable in a specified kind of money or currency, as provided in Section 667, the execution must also state the kind of money or currency in which the judgment is payable, and must require the officer to whom it is directed to proceed substantially as follows:

1. If it be against the property of the judgment debtor, it must require such officer to satisfy the judgment, with interest, out of the personal property of such debtor, and if sufficient personal property cannot be found, then out of his real property; or if the judgment be a lien upon real property, then out of the real property belonging to him on the day when the abstract of judgment was filed as provided in Section 674 of this code, or at any time thereafter.

2. If it be against real or personal property in the hands of the personal representatives, heirs, devisees, legatees, tenants, or trustees, it must require such officer to satisfy the judgment, with interest, out of such property.

3. If it be issued on a judgment made payable in a specified kind of money or currency, as provided in Section 667, it must also require such officer to satisfy the same in the kind of money or currency in which the judgment is made payable, and such officer must refuse payment in any other kind of money or currency; and in case of levy and sale of the property of the judgment debtor, he must refuse payment from any purchaser at such sale in any other kind of money or currency than that specified in the execution. Any such officer collecting money or currency in the manner required by this chapter, must pay to the plaintiff or party entitled to recover the same, the same kind of money or currency received by him, and in case of neglect or refusal to do so, he shall be liable on his official bond to the judgment creditor in three times the amount of the money so collected.

4. If it be for the delivery of the possession of real or personal property, it must require such officer to deliver the possession of the same, describing it, to the party entitled thereto, and may at the same time require such officer to satisfy any cost, damages, rents, or profits recovered by the same judgment, out of the personal property of the person against whom it was rendered, and the value of the property for which the judgment was rendered to be specified therein if a delivery thereof cannot be had; and if sufficient personal property cannot be found, then out of the real property, as provided in the first subdivision of this section.

SEC. 2. Section 682.3 of the Code of Civil Procedure is repealed.

SEC. 3. Section 683 of the Code of Civil Procedure is amended to read:

683. (a) The execution may be made returnable, at any time not less than 10 nor more than 60 days after its receipt by the officer to whom it is directed, to the court in which the judgment is entered. When the execution is returned, the clerk must attach it to the judgment roll, or the judge must make the proper entry in the docket.

(b) If an execution is returned unsatisfied, another may be afterward issued within the time specified in this code.

(c) If property either personal or real be levied upon under such writ of execution but the sale thereunder be postponed beyond or not held within the return date after it is received by the officer to whom it was delivered and which has been returned to the clerk of the court in which the judgment is entered, upon request of the person in whose favor the writ runs the court may direct the clerk to redeliver such execution to the officer to whom it was directed in order to permit the officer to make an alias return of the proceedings of the sale or levy thereon as in the case of an original return of execution.

(d) If proceeds resulting from a levy of execution are received by the levying officer after the writ has been returned to the court in which the judgment is entered, upon request of the person in whose favor the writ runs, the clerk shall redeliver such execution to the officer to whom it was directed in order to permit the officer to make an alias return of the levy as in the case of an original return of execution.

(e) Whenever a writ of execution issued against real property containing a dwelling house has been returned, proof that notice required by subdivision (d) or (g) of Section 690.31 has been served shall be indicated on the writ, or separately and attached to the writ.

(f) If an earnings withholding order has been issued and served upon the employer as provided in Chapter 2.5 (commencing with Section 723.010) prior to the time the writ of execution is made returnable under subdivision (a), the execution is returnable as provided in Section 723.026.

SEC. 4. Section 690.6 of the Code of Civil Procedure is repealed.

SEC. 5. Section 690.50 of the Code of Civil Procedure is amended to read:

690.50. (a) If the property mentioned in Sections 690.1 to 690.29, inclusive, shall be levied upon under writ of execution, the judgment debtor (herein referred to as "the debtor"), in order to avail himself of his exemption rights as to such property, shall within 10 days from the date such property was levied upon deliver to the levying officer

an affidavit of himself or his agent, together with a copy thereof, alleging that the property levied upon, identifying it, is exempt, specifying the section or sections of this code on which he relies for his claim to exemption, and all facts necessary to support his claim, and also stating therein his address within this state for the purpose of permitting service by mail upon him of the counteraffidavit and any notice of the motion herein provided.

(b) Forthwith upon receiving the affidavit of exemption, the levying officer shall serve upon the person in whose favor the writ runs (herein referred to as "the creditor"), either personally or by mail, a copy of the affidavit of exemption, together with a writing, signed by the levying officer, stating that the claim to exemption has been received and that the officer will release the property unless he receives from the creditor a counteraffidavit within five days after service of such writing.

(c) If the creditor desires to contest the claim to exemption, he shall, within such period of five days, file with the levying officer a counteraffidavit alleging that the property is not exempt within the meaning of the section or sections of this code relied upon, or if the claim to exemption be based on Section 690.2, 690.3, or 690.4, alleging that the value of the property claimed to be exempt is in excess of the value stated in the applicable section or sections, together with proof of service of a copy of such counteraffidavit upon the debtor.

(d) If no such counteraffidavit, with such proof of service, is so filed with the levying officer within the time allowed, the officer shall forthwith release the property.

(e) If such counteraffidavit, with such proof of service, is so filed, either the creditor or the debtor shall be entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining the claim to exemption or the value of the property claimed to be exempt. Such hearing shall be granted by the court upon motion of either party made within five days after the counteraffidavit is filed with the levying officer, and such hearing must be had within 15 days from the date of the making of such motion unless continued by the court for good cause. The party making the motion for hearing shall give not less than five days' notice in writing of such hearing to the levying officer and to the other party, and specify therein that the hearing is for the purpose of determining the claim to exemption. The notice may be of motion or of hearing and upon the filing of the notice with the clerk of the court, the motion is deemed made.

(f) If neither party makes such motion within the time allowed, or if the levying officer shall not have been served with a copy of the notice of hearing within 10 days after the filing of the counteraffidavit, the levying officer shall forthwith release the property to the debtor.

(g) At any time while the proceedings are pending, upon motion of either party or upon its own motion, the court may (1) order the sale of any perishable property held by such officer and direct disposition of the proceeds of such sale, and (2) make such other orders as may be proper under the particular circumstances of the case. Any orders so made may be modified or vacated by the court or judge granting the same, or by the court in which the proceedings are pending, at any time during the pendency of the proceedings, upon such terms as may be just.

(h) The levying officer in all cases shall retain physical possession of the property levied upon if it is capable of physical possession, or in the case of property not capable of physical possession, the levy shall remain in full force and effect, pending the final determination of the claim to exemption. However, no sale under execution shall be had prior to such final determination unless an order of the court hearing the claim for exemption shall so provide.

(i) At such hearing, the party claiming the exemption shall have the burden of proof. The affidavits and counteraffidavits shall be filed by the levying officer with the court and shall constitute the pleadings, subject to the power of the court to permit an amendment in the interests of justice. The affidavit of exemption shall be deemed controverted by the counteraffidavit and both shall be received in evidence. Nothing herein shall be construed to deprive anyone of the right to a jury trial in any case where, by the Constitution, such right is given, but a jury trial may be waived in any such case in like manner as in the trial of an action. No findings shall be required in a proceeding under this section. When the hearing is before the court sitting without a jury, and no evidence other than the affidavit and counteraffidavit is offered, the court, if satisfied that sufficient facts are shown thereby, may make its determination thereon. Otherwise, it shall order the hearing continued for the production of other evidence, oral or documentary, or the filing of other affidavits and counteraffidavits. At the conclusion of the hearing, the court shall give judgment determining whether the claim to exemption shall be allowed or not, in whole or in part, which judgment shall be determinative as to the right of the creditor to have the property taken and held by the officer or to subject the property to payment or other satisfaction of his judgment. In such judgment the court shall make all proper orders for the disposition of such property or the proceeds thereof.

(j) A copy of any judgment entered in the trial court shall be forthwith transmitted by the clerk to the levying officer in order to permit such officer to either release the property attached or to

continue to hold it to sell it, in accordance with the provisions of the writ previously delivered to him. Such officer, unless an appeal from the judgment is waived, or the judgment has otherwise become final, shall continue to hold such property under attachment or execution, continuing the sale of any property held under execution until such judgment becomes final.

(k) When any documents required hereunder are served by mail, the provisions of this code relating to service by mail shall be applicable thereto.

(*l*) Whenever the time allowed for an act to be done hereunder is extended by the court, written notice thereof shall be given promptly to the opposing party, unless such notice be waived, and to the levying officer.

(m) An appeal lies from any judgment under this section. Such appeal shall be taken in the manner provided for appeals in the court in which the proceeding is had.

SEC. 6. Section 710 of the Code of Civil Procedure is amended to read:

710. (a) Whenever a judgment for the payment of money is rendered by any court of this state against a defendant to whom money is owing and unpaid by this state or by any county, city and county, city or municipality, quasi-municipality, district or public corporation, the judgment creditor may file a duly authenticated abstract or transcript of such judgment together with an affidavit stating the exact amount then due, owing and unpaid thereon and that he desires to avail himself of the provisions of this section in the manner as follows:

1. If such money is owing and unpaid by this state to such judgment debtor, said judgment creditor shall file said abstract or transcript and affidavit with the state department, board, office or commission owing such money to said judgment debtor prior to the time such state department, board, office or commission presents the claim of such judgment debtor therefor to the State Controller. Said state department, board, office or commission in presenting such claim of such judgment debtor to said State Controller shall note thereunder the fact of the filing of such abstract or transcript and affidavit and state the amount unpaid on said judgment as shown by said affidavit and shall also note any amounts advanced to the judgment debtor by, or which the judgment debtor owes to, the State of California by reason of advances for expenses or for any other purpose. Thereupon the State Controller, to discharge such claim of such judgment debtor, shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due such judgment debtor on such claim, after deducting from such claim an amount sufficient to reimburse the state department, board, office or commission for any amounts advanced to said judgment debtor or by him owed to the State of California, as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof, if any,

to the judgment debtor.

2. If such money is owing and unpaid to such judgment debtor by any county, city and county, city or municipality, quasi-municipality, district or public corporation, said judgment creditor shall file said abstract or transcript and affidavit with the auditor of such county, city and county, city or municipality, quasi-municipality, district or public corporation (and in case there be no auditor then with the official whose duty corresponds to that of auditor). Thereupon said auditor (or other official) to discharge such claim of such judgment debtor shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due on such claim of such judgment debtor as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof, if any, to the judgment debtor.

(b) The judgment creditor upon filing such abstract or transcript and affidavit shall pay a fee of six dollars ($6) to the person or agency with whom the same is filed.

(c) Whenever a court receives any money hereunder, it shall pay as much thereof as is not exempt from execution under this code to the judgment creditor and the balance thereof, if any, to the judgment debtor. The procedure for determining the claim of exemption shall be governed by the procedure set forth in Section 690.50 of this code, and the court rendering the judgment shall be considered the levying officer for the purpose of that section.

(d) In the event the moneys owing to a judgment debtor by any governmental agency mentioned in this section are owing by reason of an award made in a condemnation proceeding brought by the governmental agency, such governmental agency may pay the amount of the award to the clerk of the court in which such condemnation proceeding was tried, and shall file therewith the abstract or transcript of judgment and the affidavit filed with it by the judgment creditor. Such payment into court shall constitute payment of the condemnation award within the meaning of Section 1268.010. Upon such payment into court and the filing with the county clerk of such abstract or transcript of judgment and affidavit, the county clerk shall notify by mail, through their attorneys, if any, all parties interested in said award of the time and place at which the court which tried the condemnation proceeding will determine the conflicting claims to said award. At said time and place the court shall make such determination and order the distribution of the money held by the county clerk in accordance therewith.

(e) The judgment creditor may state in the affidavit any fact or facts tending to establish the identity of the judgment debtor. No public officer or employee shall be liable for failure to perform any duty imposed by this section unless sufficient information is furnished by the abstract or transcript together with the affidavit to enable him in the exercise of reasonable diligence to ascertain such identity therefrom and from the papers and records on file in the

office in which he works. The word "office" as used herein does not include any branch or subordinate office located in a different city.

(f) Nothing in this section shall authorize the filing of any abstract or transcript and affidavit against any overpayment of tax, penalty or interest, or interest allowable with respect to such overpayment, under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(g) Any fees received by a state agency under this section shall be deposited to the credit of the fund from which payments were, or would be, made on account of a garnishment under this section.

(h) This section shall not be construed to authorize the withholding of earnings of a public officer or employee. Except as otherwise expressly provided by law, the earnings of a public officer or employee may be withheld for payment of a judgment only pursuant to Chapter 2.5 (commencing with Section 723.010).

SEC. 7. Chapter 2.5 (commencing with Section 723.010) is added to Title 9 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 2.5. EMPLOYEES' EARNINGS PROTECTION LAW

Article 1. Short Title; Definitions

723.010. This chapter shall be known and may be cited as the "Employees' Earnings Protection Law."

723.011. As used in this chapter:

(a) "Earnings" means compensation payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise.

(b) "Employee" means a public officer and any individual who performs services subject to the right of the employer to control both what shall be done and how it shall be done.

(c) "Employer" means a person for whom an individual performs services as an employee.

(d) "Judgment creditor," as applied to the state, means the specific state agency seeking to collect a judgment or tax liability.

(e) "Judgment debtor" includes a person from whom the state is seeking to collect a tax liability under Article 4 (commencing with Section 723.070), whether or not a judgment has been obtained on such tax liability.

(f) "Person" includes an individual, a corporation, a partnership or other unincorporated association, and a public entity.

Article 2. General Provisions

723.020. Except as provided in Section 4701 of the Civil Code, the earnings of an employee shall not be required to be withheld by an

employer for payment of a debt by means of any judicial procedure other than pursuant to this chapter.

723.021. Notwithstanding Section 688, a levy of execution upon the earnings of an employee shall be made by service of an earnings withholding order upon the employer in accordance with this chapter.

723.022. (a) As used in this section, "withholding period" means the period which commences on the 10th day after service of an earnings withholding order upon the employer and which continues until the earliest of the following dates:

(1) The 100th day after the order was served.

(2) The date the employer has withheld the full amount specified in the order.

(3) The date of termination specified in a court order served on the employer.

(4) The date of termination specified in a notice of termination served on the employer by the levying officer.

(b) Except as otherwise provided by statute, an employer shall withhold the amounts required by an earnings withholding order from all earnings of the employee payable for any pay period of such employee which ends during the withholding period.

(c) An employer is not liable for any amounts withheld and paid over to the levying officer pursuant to an earnings withholding order prior to service upon the employer pursuant to paragraph (3) or (4) of subdivision (a).

723.023. Except as otherwise provided in this chapter:

(a) An employer shall comply with the first earnings withholding order served upon the employer.

(b) If the employer is served with two or more earnings withholding orders on the same day, the employer shall comply with the order issued pursuant to the judgment first entered. If two or more orders served on the same day are based on judgments entered upon the same day, the employer shall comply with whichever one of such orders the employer selects.

(c) If an earnings withholding order is served during the period that an employer is required to comply with another earnings withholding order for the same judgment debtor, the subsequent order is ineffective and the employer shall not withhold earnings pursuant to the subsequent order.

723.025. (a) Except as provided in subdivision (b), the amount required to be withheld pursuant to an earnings withholding order shall be paid monthly to the levying officer not later than the 15th day of each month. The initial monthly payment shall include all amounts required to be withheld from the earnings of the employee during the preceding calendar month up to the close of the employee's pay period ending closest to the last day of that month, and thereafter each monthly payment shall include amounts withheld from the employee's earnings for services rendered in the interim up to the close of the employee's pay period ending closest

to the last day of the preceding calendar month.

(b) The employer may elect to pay the amounts withheld to the levying officer more frequently than monthly. If the employer so elects, payment of the amount withheld from the employee's earnings for each pay period shall be made not later than 10 days after the close of the pay period.

723.026. (a) The levying officer shall receive and account for all amounts received pursuant to Section 723.025 and shall pay the amounts so received over to the person entitled thereto at least once every 30 days.

(b) Where an earnings withholding order has been served prior to the time the writ of execution is made returnable under subdivision (a) of Section 683, the levying officer may, in the levying officer's discretion, return the writ of execution at either of the following times:

(1) The writ of execution may be returned after the earnings withholding order terminates and the amount withheld by the employer has been paid over to the levying officer.

(2) The writ of execution may be returned at a time earlier than the time specified in paragraph (1). In such case, the issuance of the earnings withholding order and the date of its service on the employer shall be indicated on the writ, or separately and attached thereto, and a supplemental return on the earnings withholding order shall be made at the time provided in paragraph (1) in the same manner as the writ was returned.

(c) Nothing in subdivision (b) extends the time within which a levy may be made under the writ of execution pursuant to which the earnings withholding order was issued.

723.027. If the judgment pursuant to which the earnings withholding order is issued is satisfied before the order otherwise terminates pursuant to Section 723.022, the judgment creditor shall promptly notify the levying officer who shall promptly terminate the order by serving a notice of termination on the employer.

723.028. Subject to Section 723.107, after the amount stated as owing in the earnings withholding order is paid, the judgment creditor may apply for issuance of another earnings withholding order covering costs and interest that may have accrued since application for the prior order.

723.029. Service of an earnings withholding order creates a lien upon the earnings of the judgment debtor in the amount required to be withheld pursuant to such order. Such lien continues for a period of one year from the date such earnings became payable.

723.030. (a) A "withholding order for support" is an earnings withholding order on a writ of execution issued to collect delinquent amounts payable under a judgment for the support of a child, or spouse or former spouse, of the judgment debtor. A withholding order for support shall be denoted as such on its face.

(b) Notwithstanding any other provision of this chapter:

(1) An employer shall continue to withhold pursuant to a

withholding order for support until the earliest of the dates specified in paragraph (2), (3), or (4) of subdivision (a) of Section 723.022, except that a withholding order for support shall automatically terminate one year after the employment of the employee by the employer terminates.

(2) A withholding order for support has priority over any other earnings withholding order. An employer upon whom a withholding order for support is served shall withhold and pay over earnings of the employee pursuant to such order notwithstanding the requirements of another earnings withholding order.

(3) Subject to paragraph (2) and to Article 3 (commencing with Section 723.050), an employer shall withhold earnings pursuant to both a withholding order for support and another earnings withholding order simultaneously.

723.031. (a) Nothing in this chapter affects an order made pursuant to Section 4701 of the Civil Code.

(b) An order made pursuant to Section 4701 of the Civil Code shall be given priority over any earnings withholding order as provided in that section. An employer upon whom an order made pursuant to Section 4701 is served shall withhold and pay over the earnings of the employee pursuant to such order notwithstanding the requirements of any earnings withholding order. When an employer is required to cease withholding earnings pursuant to an earnings withholding order, the employer shall notify the levying officer who served the earnings withholding order that a supervening wage assignment for support is in effect.

(c) Subject to subdivisions (b), (d), and (e), an employer shall withhold earnings of an employee pursuant to both an order made under Section 4701 of the Civil Code and an earnings withholding order.

(d) The employer shall withhold pursuant to an earnings withholding order only to the extent that the sum of the amount withheld pursuant to the order made under Section 4701 of the Civil Code and the amount withheld pursuant to the earnings withholding order does not exceed the amount that may be withheld under Article 3 (commencing with Section 723.050).

(e) The employer shall withhold pursuant to an earnings withholding order for taxes only to the extent that the sum of the amount withheld pursuant to the order made under Section 4701 of the Civil Code and the amount withheld pursuant to the earnings withholding order for taxes does not exceed the amount that may be withheld under Article 4 (commencing with Section 723.070).

Article 3. Restrictions on Earnings Withholding

723.050. The amount of earnings of a judgment debtor exempt from the levy of an earnings withholding order shall be that amount provided by federal law in 15 U.S.C. Sec. 1673.

723.051. Except as provided in Section 723.052 and in Article 4

(commencing with Section 723.070), the portion of the judgment debtor's earnings which the judgment debtor proves is necessary for the support of the judgment debtor or the judgment debtor's family supported in whole or in part by the judgment debtor is exempt from levy under this chapter unless the debt is incurred for personal services rendered by any employee or former employee of the judgment debtor or is incurred by the debtor, or his or her spouse or family for the common necessaries of life.

723.052. (a) Except as provided in subdivision (b), only one-half of the earnings of the judgment debtor plus any amount withheld from the judgment debtor's earnings pursuant to a wage assignment under Section 4701 of the Civil Code is exempt from levy under this chapter where the earnings withholding order is a withholding order for support under Section 723.030.

(b) Upon motion of any interested party, the court shall make an equitable division of the judgment debtor's earnings that takes into account the needs of all the persons the judgment debtor is required to support and shall effectuate such division by an order determining the amount to be withheld from the judgment debtor's earnings pursuant to the withholding order for support.

Article 4. Earnings Withholding Orders for Taxes

723.070. As used in this article:

(a) "State" means the State of California and includes any officer, department, board, or agency thereof.

(b) "State tax liability" means a liability, including any penalties and accrued interest and costs, for which the state would be authorized to issue (1) a warrant pursuant to Section 1785 of the Unemployment Insurance Code or Section 6776, 7881, 9001, 16071, 18906, 26191, 30341, or 32365 of the Revenue and Taxation Code or (2) a notice of levy pursuant to Section 1755 of the Unemployment Insurance Code or (3) a notice or order to withhold pursuant to Section 6702, 7851, 8952, 11451, 16101, 18817, 26132, 30311, or 32381 of the Revenue and Taxation Code.

723.071. This chapter does not limit the state's right to collect a state tax liability except that (a) no levy upon earnings of an employee held by an employer is effective unless such levy is made in accordance with the provisions of this chapter and (b) the methods of collection referred to in subdivision (b) of Section 723.070 may not be used to require an employer to withhold earnings of an employee in payment of a state tax liability.

723.072. (a) A "withholding order for taxes" is an earnings withholding order issued pursuant to this article to collect a state tax liability and shall be denoted as a withholding order for taxes on its face.

(b) A withholding order for taxes may only be issued under one of the following circumstances:

(1) The existence of the state tax liability appears on the face of

the taxpayer's return, including a case where such tax liability is disclosed from the taxpayer's return after errors in mathematical computations in the return have been corrected.

(2) The state tax liability has been assessed or determined, as provided in the Revenue and Taxation Code or Unemployment Insurance Code, and the taxpayer had notice of the proposed assessment or determination and had available an opportunity to have the proposed assessment or determination reviewed by appropriate administrative procedures. If the taxpayer makes a timely request for review of the assessment or determination, the state shall not issue a withholding order for taxes until the administrative review procedure is completed. If the taxpayer is given notice of the proposed assessment or determination but does not make a timely request for review, the state may issue a withholding order for taxes.

(c) In any case where a state tax liability has been assessed or determined prior to July 1, 1979, and the state determines that the requirements of subdivision (b) may not have been satisfied, the state may send a "Notice of Proposed Issuance of Withholding Order for Taxes" to the taxpayer at the taxpayer's last known address by first-class mail, postage prepaid. The notice shall advise the taxpayer that the taxpayer may have the assessment or determination reviewed by appropriate administrative procedures and state how such a review may be obtained. If the taxpayer is sent such a notice and requests such a review within 30 days from the date the notice was mailed to the taxpayer, the state shall provide appropriate administrative procedures for review of the assessment or determination and shall not issue the withholding order for taxes until the administrative review procedure is completed. If the taxpayer is sent such a notice and does not request such a review within 30 days from the date the notice was mailed to the taxpayer, the state may issue the withholding order for taxes.

(d) A withholding order for taxes may be issued whether or not the state tax liability has been reduced to judgment.

723.073. Except as otherwise provided in this article, the provisions of this chapter govern the procedures and proceedings concerning a withholding order for taxes. For the purposes of this article, a reference in this chapter to a "levying officer" shall be deemed to mean the specific state agency seeking to collect a state tax liability under this article.

723.074. (a) The state may itself issue a withholding order for taxes under this section to collect a state tax liability. The order shall specify the total amount required to be withheld pursuant to the order (unpaid tax liability including any penalties, accrued interest, and costs).

(b) Unless a lesser amount is specified in the order, the amount to be withheld by the employer each pay period pursuant to an order issued under this section is the amount required to be withheld under Section 723.050.

723.075. (a) This section applies to any withholding order for taxes issued under this article.

(b) Together with the withholding order for taxes, the state shall serve upon the employer an additional copy of the order and a notice informing the taxpayer of the effect of the order and of his right to hearings and remedies provided in this chapter. Within 10 days from the date of service, the employer shall deliver to the taxpayer a copy of the order and the notice, except that immediate delivery shall be made where a jeopardy withholding order for taxes has been served. If the taxpayer is no longer employed by the employer and the employer does not owe the taxpayer any earnings, the employer is not required to make such delivery.

(c) The state shall provide for an administrative hearing to reconsider or modify the amount to be withheld pursuant to the withholding order for taxes, and the taxpayer may request such a hearing at any time after service of the order. If the taxpayer requests a hearing, the hearing shall be provided, and the matter shall be determined, within 15 days after the request is received by the state. The determination of the amount to be withheld is subject to the standard provided in Section 723.051.

(d) The employer is not subject to any civil liability for failure to comply with subdivision (b). Nothing in this subdivision limits the power of a court to hold the employer in contempt of court for failure to comply with subdivision (b).

723.076. (a) A withholding order for taxes may be issued pursuant to this section requiring the employer of the taxpayer to withhold an amount in excess of the amount that may be required to be withheld pursuant to an order issued under Section 723.074.

(b) The state may, at any time, apply to a court of record in the county where the taxpayer was last known to reside for the issuance of a withholding order for taxes under this section to collect a state tax liability.

(c) The application for the order shall include an affidavit or declaration under penalty of perjury stating that the state has served upon the taxpayer both of the following:

(1) A copy of the application.

(2) A notice informing the taxpayer of the purpose of the application and the right of the taxpayer to appear at the court hearing on the application.

(d) Upon the filing of the application, the court shall immediately set the matter for hearing and the court clerk shall send a notice of the time and place of the hearing by first-class mail, postage prepaid, to the state and the taxpayer. The notice shall be deposited in the mail at least 10 days before the day set for the hearing.

(e) After hearing, the court shall issue a withholding order for taxes which shall require the taxpayer's employer to withhold and pay over all earnings of the taxpayer other than that amount which the taxpayer proves is exempt under Section 723.051, but in no event shall the amount to be withheld be less than that permitted to be

withheld under Section 723.050.

(f) The state may issue a temporary earnings holding order, which shall be denoted as such on its face, in any case where the state intends to apply for a withholding order for taxes under this section and has determined that the collection of the state tax liability will be jeopardized in whole or in part if the temporary earnings holding order is not issued. The temporary earnings holding order shall be directed to the taxpayer's employer and shall require the employer to retain in the employer's possession or under the employer's control all or such portion of the earnings of the taxpayer then or thereafter due as is specified in the order. Together with the temporary earnings holding order, the state shall serve upon the employer an additional copy of the order and a notice informing the taxpayer of the effect of the order and of the right to the remedies provided in this chapter. Upon receipt of the order, the employer shall deliver to the taxpayer a copy of the order and notice. If the taxpayer is no longer employed by the employer and the employer does not owe the taxpayer any earnings, the employer is not required to make such delivery. The temporary earnings holding order expires 15 days from the date it is served on the employer unless it is extended by the court on ex parte application for good cause shown. If a temporary earnings holding order is served on an employer, the state may not thereafter, for a period of six months, serve on the same employer another temporary earnings holding order for the same employee unless the court for good cause shown otherwise orders. Sections 723.153 and 723.154 apply to temporary earnings holding orders issued under this section.

723.077. (a) Subject to subdivision (b), an employer upon whom a withholding order for taxes is served shall withhold and pay over earnings of the employee pursuant to such order and shall cease to withhold earnings pursuant to any prior earnings withholding order except that a withholding order for support shall be given priority as provided in Section 723.030. When an employer is required to cease withholding earnings pursuant to an earlier earnings withholding order, the employer shall notify the levying officer who served the earlier earnings withholding order that a supervening withholding order for taxes is in effect.

(b) An employer shall not withhold earnings of an employee pursuant to a withholding order for taxes if a prior withholding order for taxes is in effect, and, in such case, the subsequent withholding order for taxes is ineffective.

723.078. (a) Except as provided in subdivision (b), the employer shall not withhold pursuant to a withholding order for taxes from earnings of the employee payable for any pay period of such employee that ends prior to the 10th day after service of the order.

(b) A "jeopardy withholding order for taxes," which shall be denoted as such on its face, is a withholding order for taxes that requires that the employer withhold pursuant to the order from earnings due to the employee at the time of service of the order on

the employer and from earnings thereafter due. A jeopardy withholding order for taxes may be issued only where the state has determined that the collection of a state tax liability will be jeopardized in whole or in part by delaying the time when withholding from earnings commences.

(c) An employer shall continue to withhold pursuant to a withholding order for taxes until the amount specified in the order has been paid in full or the order is withdrawn, except that the order automatically terminates one year after the employment of the employee by the employer terminates. The state shall promptly serve on the employer a notice terminating the withholding order for taxes if the state tax liability for which the withholding order for taxes was issued is satisfied before the employer has withheld the full amount specified in the order, and the employer shall discontinue withholding in compliance with such notice.

723.080. Service of a withholding order for taxes or of any other notice or document required under this chapter in connection with a withholding order for taxes may be made by the state by first-class mail, postage prepaid, or by any authorized state employee. Service of a withholding order for taxes is complete when it is received by the employer or a person described in paragraph (1) or (2) of subdivision (a) of Section 723.101. Service of, or the providing of, any other notice or document required to be served or provided under this chapter in connection with a withholding order for taxes is complete when the notice or document is deposited in the mail addressed to the last known address of the person on whom it is served or to whom it is to be provided.

723.081. Except for the forms referred to in Section 723.076, the state shall prescribe the form of any order, notice, or other document required by this chapter in connection with a withholding order for taxes notwithstanding Sections 723.100 and 723.120, and any form so prescribed is deemed to comply with this chapter.

723.082. No review of the taxpayer's tax liability shall be permitted in any court proceedings under this chapter.

723.083. If the state determines that a withholding order for taxes has been issued in error or that there is no tax liability, the state shall refund to the employee any amounts deducted by the employer pursuant to Section 723.024.

723.084. Where a warrant, notice of levy, or notice or order to withhold (referred to in subdivision (b) of Section 723.070) is served on the employer, it shall be deemed to be a withholding order for taxes as to any earnings that are subject to the provisions of this chapter if both of the following requirements are satisfied:

(a) The form provides notice on its face that it is to be treated as a withholding order for taxes as to any earnings that are subject to the provisions of this chapter.

(b) The form provides all the information provided in a withholding order for taxes.

Article 5. Procedure for Earnings Withholding Orders and Exemption Claims

723.100. Notwithstanding any other provision of law, the Judicial Council may provide by rule for the practice and procedure in proceedings under this chapter except for the state's administrative hearings provided by Article 4 (commencing with Section 723.070).

723.101. (a) An earnings withholding order shall be served by the levying officer upon the employer by delivery of the order to any of the following:

(1) The managing agent or person in charge, at the time of service, of the branch or office where the employee works or the office from which the employee is paid.

(2) Any person to whom a copy of the summons and of the complaint may be delivered to make service on the employer under Article 4 (commencing with Section 416.10) of Chapter 4 of Title 5.

(b) Service of an earnings withholding order shall be made by personal delivery as provided in Section 415.10 or 415.20 or by delivery by registered or certified mail, postage prepaid, with return receipt requested. When service is made by mail, service is completed at the time the return receipt is executed by or on behalf of the recipient. If the levying officer attempts service by mail under this subdivision and does not receive a return receipt within 15 days from the date of deposit in the mail of the earnings withholding order, the levying officer shall make service as provided in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5.

(c) Service of any notice or document under this chapter may be made in the same manner as an earnings withholding order. If service is made on the employer after the employer's return has been received by the levying officer, the service shall be made by registered or certified mail, postage prepaid, with return receipt requested, on the person designated in the employer's return to receive notices and at the address indicated in the employer's return, whether or not such address is within the county. Nothing in this subdivision precludes service by personal delivery on the person designated in the employer's return.

723.102. (a) If a writ of execution has been issued to the county where the judgment debtor's employer is to be served and the time for the return of the writ under subdivision (a) of Section 683 has not expired, a judgment creditor may apply for the issuance of an earnings withholding order by filing an application, in the form prescribed by the Judicial Council, with a levying officer in such county who shall promptly issue an earnings withholding order in the form prescribed pursuant to Sections 723.120 and 723.125.

(b) This section does not apply where the earnings withholding order is a withholding order for taxes.

723.103. (a) The levying officer shall serve upon the designated employer all of the following:

(1) The original and one copy of the earnings withholding order.

(2) The form for the employer's return.

(3) The notice to employee of earnings withholding order in the form prescribed pursuant to Sections 723.120 and 723.122.

(b) At the time the levying officer makes service pursuant to subdivision (a), the levying officer shall provide the employer with a copy of the employer's instructions referred to in Section 723.127. The Judicial Council may adopt rules prescribing the circumstances when compliance with this subdivision is not required.

(c) No earnings withholding order shall be served upon the employer after the time specified in subdivision (a) of Section 683 for the return of the writ of execution under which the order was issued has expired.

723.104. Any employer who is served with an earnings withholding order shall:

(a) Deliver to the judgment debtor a copy of the earnings withholding order and the notice to employee of earnings withholding order within 10 days from the date of service. If the judgment debtor is no longer employed by the employer and the employer does not owe the employee any earnings, the employer is not required to make such delivery. The employer is not subject to any civil liability for failure to comply with this subdivision. Nothing in this subdivision limits the power of a court to hold the employer in contempt of court for failure to comply with this subdivision.

(b) Complete the employer's return on the form provided by the levying officer and mail it by first-class mail, postage prepaid, to the levying officer within 15 days from the date of service. If the earnings withholding order is ineffective, the employer shall state in the employer's return that the order will not be complied with for this reason and shall return the order to the levying officer with the employer's return.

723.105. (a) A judgment debtor may claim an exemption under Section 723.051 under either of the following circumstances:

(1) No prior hearing has been held with respect to the earnings withholding order.

(2) There has been a material change in circumstances since the time of the last prior hearing on the earnings withholding order.

(b) A claim of exemption shall be made by filing with the levying officer an original and one copy of (1) the judgment debtor's claim of exemption and (2) the judgment debtor's financial statement.

(c) Upon the filing of the claim of exemption, the levying officer shall promptly send to the judgment creditor, at the address stated in the application for the earnings withholding order, by first-class mail, postage prepaid, all of the following:

(1) A copy of the claim of exemption.

(2) A copy of the financial statement.

(3) A notice of claim of exemption, in the form prescribed by the Judicial Council, stating that the claim of exemption has been filed and that the earnings withholding order will be terminated, or modified to reflect the amount of earnings claimed to be exempt in

the claim of exemption, unless a notice of opposition to the claim of exemption is filed with the levying officer by the judgment creditor within 10 days after the date of the mailing of the notice of claim of exemption.

(d) A judgment creditor who desires to contest a claim of exemption shall, within 10 days after the date of the mailing of the notice of claim of exemption, file with the levying officer a notice of opposition to the claim of exemption.

(e) If a notice of opposition to the claim of exemption is filed with the levying officer within the 10-day period, the judgment creditor is entitled to a hearing on the claim of exemption. If the judgment creditor desires a hearing on the claim of exemption, the judgment creditor shall file a notice of motion for an order determining the claim of exemption with the court within 10 days after the date the levying officer mailed the notice of claim of exemption. If the notice of motion is so filed, the hearing on the motion shall be held not later than 20 days from the date the notice of motion was filed unless continued by the court for good cause. Not less than 10 days prior to the hearing, the judgment creditor shall give written notice of the hearing to the levying officer and shall serve a notice of the hearing and a copy of the notice of opposition to the claim of exemption by first-class mail on the judgment debtor and, if the claim of exemption so requested. on the attorney for the judgment debtor. Service is deemed made when the notice of the hearing and a copy of the notice of opposition to the claim of exemption are deposited in the mail, postage prepaid, addressed to the judgment debtor at the address stated in the claim of exemption and, if service on the attorney for the judgment debtor was requested in the claim of exemption, to the attorney at the address stated in the claim of exemption. The judgment creditor shall file proof of such service with the court. After receiving the notice of the hearing and before the date set for the hearing, the levying officer shall file the claim of exemption and the notice of opposition to the claim of exemption with the court.

(f) If the levying officer does not receive a notice of opposition to the claim of exemption within the 10-day period after the date of mailing of the notice of claim of exemption and a notice of the hearing not later than 10 days after the filing of the notice of opposition to the claim of exemption, the levying officer shall serve on the employer one of the following:

(1) A notice that the earnings withholding order has been terminated if all of the judgment debtor's earnings were claimed to be exempt.

(2) A modified earnings withholding order which reflects the amount of earnings claimed to be exempt in the claim of exemption if only a portion of the judgment debtor's earnings was claimed to be exempt.

(g) If, after hearing, the court orders that the earnings withholding order be modified or terminated, the clerk shall

promptly transmit a certified copy of the order to the levying officer who shall promptly serve on the employer of the judgment debtor (1) a copy of the modified earnings withholding order or (2) a notice that the earnings withholding order has been terminated. The court may order that the earnings withholding order be terminated as of a date which precedes the date of hearing. If the court determines that any amount withheld pursuant the earnings withholding order shall be paid to the judgment debtor, the court shall make an order directing the person who holds such amount to pay it promptly to the judgment debtor.

(h) If the earnings withholding order is terminated by the court, unless the court otherwise orders or unless there is a material change of circumstances since the time of the last prior hearing on the earnings withholding order, the judgment creditor may not apply for another earnings withholding order directed to the same employer with respect to the same judgment debtor for a period of 100 days following the date of service of the earnings withholding order or 60 days after the date of the termination of the order, whichever is later.

(i) If an employer has withheld and paid over amounts pursuant to an earnings withholding order after the date of termination of such order but prior to the receipt of notice of its termination, the judgment debtor may recover such amounts only from the levying officer if the levying officer still holds such amounts or, if such amounts have been paid over to the judgment creditor, from the judgment creditor. If the employer has withheld amounts pursuant to an earnings withholding order after termination of the order but has not paid over such amounts to the levying officer, the employer shall promptly pay over such amounts to the judgment debtor.

(j) An appeal lies from any court order under this section denying a claim of exemption or modifying or terminating an earnings withholding order. Such appeal shall be taken in the manner provided for appeals in the court in which the proceeding is had. An appeal by the judgment creditor from an order modifying or terminating the earnings withholding order does not stay the order from which the appeal is taken. Notwithstanding the appeal, until such time as the order modifying or terminating the earnings withholding order is set aside or modified, the order allowing the claim of exemption in whole or in part shall be given the same effect as if the appeal had not been taken.

(k) This section does not apply to a withholding order for support or a withholding order for taxes.

723.106. No findings are required in court proceedings under this chapter.

723.107. If an employer withholds earnings pursuant to an earnings withholding order, the judgment creditor who obtained the order may not cause another earnings withholding order to be served on the same employer requiring the employer to withhold earnings of the same employee during the 10 days following the expiration of the prior earnings withholding order.

Article 6. Forms; Employer's Instructions

723.120. Except as provided in Section 723.081, the Judicial Council shall prescribe the form of the applications, notices, claims of exemption, orders, and other documents required by this chapter and only such forms may be used to implement this chapter. The Judicial Council may prescribe forms in languages other than English. Any such form prescribed by the Judicial Council is deemed to comply with this chapter.

723.121. The "application for issuance of earnings withholding order" shall be executed under oath or by declaration under penalty of perjury and shall include all of the following:

(a) The name, the last known address, and, if known, the social security number of the judgment debtor.

(b) The name and address of the judgment creditor.

(c) The court where the judgment was entered and the date the judgment was entered.

(d) The date of issuance of a writ of execution to the county where the earnings withholding order is sought.

(e) The amount sought to be collected, indicating the amount of the judgment, plus additional accrued items, less partial satisfactions, if any.

(f) The name and address of the employer to whom the order will be directed.

(g) The name and address of the person to whom the withheld money is to be paid by the levying officer.

723.122. The "notice to employee of earnings withholding order" shall contain a statement that informs the employee in simple terms of the nature of a wage garnishment, the right to an exemption, the procedure for claiming an exemption, and any other information the Judicial Council determines would be useful to the employee and appropriate for inclusion in the notice, including all of the following:

(a) The named employer has been ordered to withhold from the earnings of the judgment debtor the amounts required to be withheld under Section 723.050, or such other amounts as are specified in the earnings withholding order, and to pay these amounts over to the levying officer for transmittal to the person specified in the order in payment of the judgment described in the order.

(b) The amounts required to be withheld pursuant to Section 723.050 on illustrative amounts of earnings.

(c) No amount can be withheld from the earnings of a judgment debtor which the judgment debtor proves is necessary for the support of the judgment debtor or the judgment debtor's family supported in whole or in part by the judgment debtor.

(d) If a judgment debtor wishes a court hearing to prove that amounts should not be withheld from the judgment debtor's earnings because they are necessary for the support of the judgment debtor or the judgment debtor's family supported in whole or in part

by the judgment debtor, the judgment debtor shall file with the levying officer an original and one copy of the "judgment debtor's claim of exemption" and an original and one copy of the "judgment debtor's financial statement." The notice shall also advise the judgment debtor that the claim of exemption form and the financial statement form may be obtained without charge at the office of the levying officer.

(e) Under Section 300 of the Labor Code, the judgment debtor may revoke an assignment of wages or salary to be earned after the time of the revocation unless the assignment is made pursuant to Section 4701 of the Civil Code.

723.123. The "judgment debtor's claim of exemption" shall be executed under oath or by declaration under penalty of perjury. The claim of exemption shall indicate how much the judgment debtor believes should be withheld from the judgment debtor's earnings each pay period by the employer pursuant to the earnings withholding order and shall state the judgment debtor's present mailing address.

723.124. The "judgment debtor's financial statement" shall be executed under oath or by declaration under penalty of perjury and shall include all of the following information:

(a) The name, age, and relationship of all persons dependent upon the judgment debtor for support.

(b) All sources of the judgment debtor's earnings and other income and the amounts of such earnings and other income.

(c) All sources and the amounts of earnings and other income of the persons listed in subdivision (a).

(d) A listing of the assets of the judgment debtor and the value of such assets.

(e) All outstanding obligations of the judgment debtor.

(f) Whether any earnings withholding orders are in effect for the judgment debtor or the persons listed in subdivision (a).

(g) Whether any orders made under Section 4701 of the Civil Code are in effect for the judgment debtor or the persons listed in subdivision (a).

723.125. The "earnings withholding order" shall include all of the following:

(a) The name, address, and, if known, the social security number of the judgment debtor.

(b) The name and address of the employer to whom the order is directed.

(c) The court where the judgment was entered, the date the judgment was entered, and the name of the judgment creditor.

(d) The date of issuance of the writ of execution to the county where the earnings withholding order is sought.

(e) The total amount that may be withheld pursuant to the order (the amount of the judgment, plus additional accrued items, less partial satisfactions, if any).

(f) A description of the withholding period and an order to the

employer to withhold from the earnings of the judgment debtor for each pay period the amount required to be withheld under Section 723.050 or the amount specified in the order, as the case may be, for the pay periods ending during such withholding period.

(g) An order to the employer to pay over to the levying officer at a specified address the amount required to be withheld and paid over pursuant to the order in the manner and within the times provided by law.

(h) An order that the employer fill out the "employer's return" and return it by first-class mail, postage prepaid, to the levying officer at a specified address within 15 days after service of the earnings withholding order.

(i) An order that the employer deliver to the judgment debtor a copy of the earnings withholding order and the "notice to employee of earnings withholding order" within 10 days after service of the earnings withholding order; but, if the judgment debtor is no longer employed by the employer and the employer does not owe the employee any earnings, the employer is not required to make such delivery.

(j) The name and address of the levying officer.

723.126. (a) The "employer's return" shall be executed under oath or by declaration under penalty of perjury. The form for the return provided to the employer shall state all of the following information:

(1) The name and address of the levying officer to whom the form is to be returned.

(2) A direction that the form be mailed to the levying officer by first-class mail, postage prepaid, no later than 15 days after the date of service of the earnings withholding order.

(3) The name, the address, and, if known, the social security number of the judgment debtor.

(b) In addition, the employer's return form shall require the employer to supply all of the following information:

(1) The date the earnings withholding order was served on the employer.

(2) Whether the judgment debtor is now employed by the employer or whether the employer otherwise owes earnings to the employee.

(3) If the judgment debtor is employed by the employer or the employer otherwise owes earnings to the employee, the amount of the employee's earnings for the last pay period and the length of this pay period.

(4) Whether the employer was required on the date of service to comply with an earlier earnings withholding order and, if so, the name of the judgment creditor who secured the earlier order, the levying officer who served such order, the date it was issued, the date it was served, the expiration date of such order, and which of the earnings withholding orders the employer is required to comply with under the applicable statutory rules concerning the priority of such

orders.

(5) Whether the employer was required on the date of service to comply with an order made pursuant to Section 4701 of the Civil Code and, if so, the court which issued such order and the date it was issued and any other information the Judicial Council determines is needed to identify the order.

(6) The name and address of the person to whom notices to the employer are to be sent.

723.127. (a) The Judicial Council shall prepare "employer's instructions" for employers and revise or supplement these instructions to reflect changes in the law or rules regulating the withholding of earnings.

(b) Except to the extent that they are included in the forms required to be provided to the employer by the levying officer, the Judicial Council shall publish and provide to the levying officers copies of the employer's instructions.

723.128. The "judgment creditor's notice of opposition to the claim of exemption" shall be executed under oath or by declaration under penalty of perjury and shall include all of the following:

(a) The name, last known address, and, if known, the social security number of the judgment debtor.

(b) The name and address of the judgment creditor.

(c) The date of mailing of the notice of claim of exemption.

(d) The amount of the judgment debtor's claim of exemption which the judgment creditor claims is not exempt.

(e) The factual and legal grounds for the judgment creditor's opposition to the claim of exemption.

723.129. The levying officer shall have copies of the forms for the "judgment debtor's claim of exemption" and "judgment debtor's financial statement" available at the levying officer's office for distribution without charge to a person who desires to make a claim of exemption under Section 723.051.

Article 7. Administration and Enforcement

723.151. The Judicial Council may perform all acts required by the Administrator of the Wage and Hour Division of the United States Department of Labor as conditions to exemption of this state from the earnings garnishment provisions of the Consumer Credit Protection Act of 1968 (15 U.S.C. Secs. 1671–1677), including, but not limited to:

(a) Representing and acting on behalf of the state in relation to the Administrator of the Wage and Hour Division and the administrator's representatives with regard to any matter relating to, or arising out of, the application, interpretation, and enforcement of the laws of this state regulating withholding of earnings.

(b) Submitting to the Administrator of the Wage and Hour Division in duplicate and on a current basis, a certified copy of every statute of this state affecting earnings withholding, and a certified

copy of any decision in any case involving any of those statutes, made by the Supreme Court of this state.

(c) Submitting to the Administrator of the Wage and Hour Division any information relating to the enforcement of earnings withholding laws of this state which the administrator may request.

723.152. If an employer withholds earnings pursuant to this chapter and, with the intent to defraud either the judgment creditor or the judgment debtor, fails to pay such withheld earnings over to the levying officer, the employer is guilty of a misdemeanor.

723.153. (a) No employer shall defer or accelerate any payment of earnings to an employee with the intent to defeat or diminish the judgment creditor's rights under an earnings withholding order issued pursuant to the procedures provided by this chapter.

(b) If an employer violates this section, the judgment creditor may bring a civil action against the employer to recover the amount that would have been withheld and paid over pursuant to this chapter had the employer not violated this section. The remedy provided by this subdivision is not exclusive.

723.154. (a) If an employer fails to withhold or to pay over the amount the employer is required to withhold and pay over pursuant to this chapter, the judgment creditor may bring a civil action against the employer to recover such amount. The remedy provided by this subdivision is not exclusive.

(b) Notwithstanding subdivision (a), an employer who complies with any written order or written notice which purports to be given or served in accordance with the provisions of this chapter is not subject to any civil or criminal liability for such compliance unless the employer has actively participated in a fraud.

SEC. 8. Section 26750 is added to the Government Code, to read:

26750. (a) The fee for serving an earnings withholding order under the Employees' Earnings Protection Law, Chapter 2.5 (commencing with Section 723.010) of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to such levy is eight dollars and fifty cents ($8.50).

(b) No additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Employees' Earnings Protection Law, Chapter 2.5 (commencing with Section 723.010) of Title 9 of Part 2 of the Code of Civil Procedure.

SEC. 9. Section 300 of the Labor Code is amended to read:

300. (a) As used in this section, the phrase "assignment of wages" includes the sale or assignment of, or giving of an order for, wages or salary but does not include an order or assignment made pursuant to Section 4701 of the Civil Code.

(b) No assignment of wages, earned or to be earned, is valid unless all of the following conditions are satisfied:

(1) The assignment is contained in a separate written instrument, signed by the person by whom the wages or salary have been earned

or are to be earned, and identifying specifically the transaction to which the assignment relates.

(2) Where the assignment is made by a married person, the written consent of the spouse of the person making the assignment is attached to the assignment. No such consent is required of any married person (i) after entry of a judgment decreeing a legal separation from such person's spouse or (ii) if the married person and the spouse of the married person are living separate and apart after entry of an interlocutory judgment of dissolution of their marriage, if a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(3) Where the assignment is made by a minor, the written consent of a parent or guardian of the minor is attached to the assignment.

(4) Where the assignment is made by a person who is unmarried or who is an adult or who is both unmarried and an adult, a written statement by the person making the assignment, setting forth such facts, is attached to or included in the assignment.

(5) No other assignment exists in connection with the same transaction or series of transactions and a written statement by the person making the assignment to that effect is attached to or included in the assignment.

(6) A copy of the assignment and of the written statement provided for in paragraphs (2), (4), and (5), authenticated by a notary public, is filed with the employer, accompanied by an itemized statement of the amount then due to the assignee.

(7) At the time the assignment is filed with the employer, no other assignment of wages of the employee is subject to payment and no earnings withholding order against the employee's wages or salary is in force.

(c) A valid assignment of wages in effect at the time an earnings withholding order is served suspends the operation of the earnings withholding order until after the end of the pay period during which the earnings withholding order is served. Thereafter the employer shall withhold from the employee's wages or salary pursuant to the earnings withholding order without regard to whether the assignment remains in effect.

(d) Under any assignment of wages, a sum not to exceed 50 per centum of the assignor's wages or salary shall be withheld by, and be collectible from, the assignor's employer at the time of each payment of such wages or salary.

(e) The employer is entitled to rely upon the statements of fact in the written statement provided for in paragraphs (2), (4), and (5) of subdivision (b), without the necessity of inquiring into the truth thereof, and the employer shall incur no liability whatsoever by reason of any payments made by the employer to an assignee under any assignment in reliance upon the facts so stated.

(f) An assignment of wages to be earned is revocable at any time by the maker thereof. Any power of attorney to assign or collect

wages or salary is revocable at any time by the maker thereof. No revocation of such an assignment or power of attorney is effective as to the employer until the employer receives written notice of revocation from the maker.

(g) No assignment of wages, earned or to be earned, is valid under any circumstances if the wages or salary earned or to be earned are paid under a plan for payment at a central place or places established under the provisions of Section 204a.

(h) This section does not apply to deductions which the employer may be requested by the employee to make for the payment of life, retirement, disability or unemployment insurance premiums, for the payment of taxes owing from the employee, for contribution to funds, plans or systems providing for death, retirement, disability, unemployment, or other benefits, for the payment for goods or services furnished by the employer to the employee or the employee's family at the request of the employee, or for charitable, educational, patriotic or similar purposes.

(i) No assignment of wages is valid unless at the time of the making thereof, such wages or salary have been earned, except for necessities of life and then only to the person or persons furnishing such necessities of life directly and then only for the amount needed to furnish such necessities.

SEC. 10. Section 11489 of the Welfare and Institutions Code is amended to read:

11489. After judgment in any court action brought to enforce the support obligation of an absent parent pursuant to the provisions of this chapter, the court may order an assignment of wages pursuant to Section 4701 of the Civil Code.

SEC. 11. Any levy of a writ of execution against the earnings of an employee pursuant to Section 682.3 of the Code of Civil Procedure that has been served on the employer prior to July 1, 1979, shall be given effect after the operative date of this act to the same extent as it would have been given effect had this act not been enacted, and the law in effect prior to the operative date of this act shall govern such levy. No earnings withholding order served pursuant to this act on or after July 1, 1979, shall be given any effect during the period that a levy made pursuant to a writ of execution against the earnings of an employee pursuant to Section 682.3 of the Code of Civil Procedure has been given effect, and any earnings withholding order served on an employer during the period such a levy is in effect shall be ineffective.

SEC. 12. This act shall become operative on July 1, 1979. The Judicial Council, the state agencies concerned with the implementation of Article 4 (commencing with Section 723.070) of Chapter 2.5, of Title 9, of Part 2 of the Code of Civil Procedure, and the court clerks and levying officers shall, prior to that date, take all measures necessary in order that the provisions of this act may be implemented on July 1, 1979.

SEC. 13. Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because self-financing authority is provided in this act to cover such costs.

SEC. 14. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act or the application of such provision to other persons or circumstances, shall not be affected thereby.

CHAPTER 1134

An act to amend Section 987.8 of the Penal Code and Section 27712 of the Government Code, relating to court-appointed counsel.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 987.8 of the Penal Code is amended to read:

987.8. (a) In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost thereof. The court may, in its discretion, hold one such additional hearing within six months of the conclusion of the criminal proceedings. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the legal assistance provided. At a hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, and to confront and cross-examine adverse witnesses; disclosure of the evidence against the defendant, and a written statement of the findings of the court. If the court determines that the defendant has the present ability to pay all or part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

(b) Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that upon the conclusion of the criminal proceedings in the trial court, the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of counsel. The court shall also give notice that, if the court determines that the defendant

has such present ability, the court shall order him to pay all or part of such cost. The notice shall inform the defendant that the order shall have the same force and effect as a judgment in a civil action and shall be subject to execution.

(c) Definitions:

(1) The term "legal assistance provided" means legal counsel and supportive services including, but not limited to, medical and psychiatric examinations, investigative services, expert testimony and any other form of services provided to assist the defendant in the preparation and presentation of the defendant's case.

(2) The term "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of the legal assistance provided, and shall include, but not be limited to the defendant's:

(i) Present financial position;

(ii) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position. Unless the court finds unusual circumstances, a defendant sentenced to state prison shall be determined not to have a reasonably discernible future financial ability to reimburse the costs of his defense;

(iii) Likelihood that the defendant shall be able to obtain employment within a six month period from the date of the hearing.

(iv) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs of the legal assistance provided.

(d) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering the judgment.

SEC. 2. Section 27712 of the Government Code is amended to read:

27712. In any case in which a party is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the proceedings, the court may make a determination of the ability of the party to pay all or a portion of the cost of such legal assistance. Such determination of ability to pay shall only be made after a hearing conducted according to the provisions of Section 987.8 of the Penal Code. The court may, in its discretion, hold one such additional hearing within six months of the conclusion of the criminal proceedings. If the court determines that the party has the ability to pay all or part of the cost, it shall order the party to pay the sum to the county in any installments and manner which it believes reasonable and compatible with the party's ability to pay. Execution may be issued on the order in the same

manner as on a judgment in a civil action. The order shall not be enforced by contempt.

The court shall adjudge a standard by which to measure the cost of legal assistance provided, which standard shall reflect the cost of legal services provided. Appointed counsel shall provide evidence of the services performed pursuant to such standard.

CHAPTER 1135

An act to amend Section 21208 of the Financial Code, to amend Section 459 of the Health and Safety Code, and to amend Sections 11050.5, 11107 and 11113 of, and to repeal and add Section 11108 to, the Penal Code, relating to criminal reporting.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 21208 of the Financial Code is amended to read:

21208. Every pawnbroker shall report daily all descriptions of all property received in pawn or purchased as secondhand merchandise, in whatever quantity received, including property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale, and secondhand merchandise taken in trade; provided, however, that no such report need be made concerning property or merchandise acquired from another pawnbroker in a transaction involving the purchase or other acquisition from the other pawnbroker of his stock in trade or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to that property or merchandise.

If the transaction took place within the territorial limits of an incorporated city, the report shall be submitted to the police chief executive of the city. If the transaction took place outside the territorial limits of an incorporated city, the reports shall be submitted to the sheriff of the county.

All reports shall be on forms approved by or prescribed by the Department of Justice. They shall otherwise comply with and be submitted in accordance with the terms of any applicable city, county, or city and county ordinances requiring such reporting. In the absence of local ordinances requiring such reporting, the reports shall be submitted to the police chief executive or the sheriff. The police chief executive or sheriff who receives a report on a form filed pursuant to the provisions of this section shall daily submit a legible copy of the transactions to the Department of Justice.

SEC. 2. Section 459 of the Health and Safety Code is amended to

read:

459. The county health officer shall investigate health and sanitary conditions in every county jail and other detention facility of the county at least annually. He may make such additional investigations of any county jail or other detention facility of the county as he may determine are necessary. He shall submit his report to the Board of Corrections, the sheriff or other person in charge of such jail or detention facility, and to the board of supervisors. In any city having a health officer, such health officer shall investigate health and sanitary conditions in every city jail and other detention facility at least annually. He may make such additional investigations of any city jail or detention facility as he may determine are necessary. He shall submit his report to the Board of Corrections, the person in charge of such jail or detention facility, and to the governing body of the city.

Whenever so requested by the sheriff, the chief of police, local legislative body, or the Board of Corrections, but not oftener than twice annually, the county health officer or, in cities having a city health officer, the city health officer, shall investigate health and sanitary conditions in any of the jails and detention facilities described in this section, and submit his report to each of the officers and agencies authorized in this section to request such investigation and to the Board of Corrections.

The investigating officer shall determine if the food, clothing, and bedding is of sufficient quantity and quality which at least shall equal minimum standards and requirements prescribed by the Board of Corrections for the feeding, clothing and care of prisoners in all county, city and other local jails and detention facilities, and if the sanitation requirements required by Article 2 (commencing with Section 28540), Chapter 11, Division 22 of this code for restaurants have been maintained.

SEC. 3. Section 11050.5 of the Penal Code is amended to read:

11050.5. (a) The Attorney General may, upon the request of any district attorney, sheriff, chief of police, or other local, state or federal law enforcement official, make available to such official so requesting, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the investigation of criminal matters, the detection of crimes and the apprehension or prosecution of criminals.

(b) The Attorney General may, upon the request of any public defender or private defense counsel appointed by the court, make available to such public defender or such private appointed counsel, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the representation by such public defender or private appointed

counsel of persons in criminal proceedings. The Attorney General may contract with each county whose public defender or such private appointed counsel makes requests pursuant to this subdivision for the payment of the reasonable costs of time and material in making available information, services or facilities pursuant to this subdivision. No information, services or facilities shall be made available to such public defender or private appointed counsel unless the county so contracts with the Attorney General.

(c) A copy of any information, including the results of any analysis, furnished by the Attorney General to a public defender, or private defense counsel appointed by the court, pursuant to subdivision (b) shall be sent to the district attorney of the county in which the public defender is located. If this subdivision or its application to any person or circumstance is invalid, subdivision (b) shall not be operative.

(d) The Department of Justice may charge a fee for the laboratory services it performs.

SEC. 4. Section 11107 of the Penal Code is amended to read:

11107. Each sheriff or police chief executive shall furnish to the Department of Justice on standard forms approved by the department daily reports of those misdemeanors and felonies required by the Attorney General including but not limited to, forgery, fraud-bunco, bombings, receiving or selling stolen property, safe and commercial burglary, grand theft, child abuse, homicide, threats, and offenses involving lost, stolen, found, pledged or pawned property. These reports shall describe the nature and character of each such crime and note all particular circumstances of each such crime and include all additional or supplemental data. The Attorney General may also require that the report indicate whether or not the submitting agency considers the information to be confidential because it was compiled for the purpose of a criminal investigation of suspected criminal activities. The term "criminal investigation" includes the gathering and maintenance of information pertaining to suspected criminal activity.

SEC. 5. Section 11108 of the Penal Code is repealed.

SEC. 6. Section 11108 is added to the Penal Code, to read:

11108. Each sheriff or police chief executive shall submit descriptions of serialized property which has been reported stolen, lost, found, recovered or under observation, directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property, as the case may be.

Reports of stolen nonserialized property which has unique characteristics or inscriptions permitting accurate identification shall be sent by each sheriff or police chief executive directly to the Special Services Section of the department by letter or teletype.

11113. Each coroner shall furnish the Department of Justice promptly with copies of fingerprints on standardized eight-inch by eight-inch cards, and descriptions and other identifying data,

including date and place of death, of all deceased persons whose deaths are in classifications requiring inquiry by the coroner where the coroner is not satisfied with the decedent's identification. When it is not physically possible to furnish prints of the 10 fingers, prints or partial prints of any fingers, with other identifying data, shall be forwarded by the coroner to the department.

In all cases where there is a criminal record on file in the department for the decedent, the department shall notify the Federal Bureau of Investigation and each California sheriff and chief of police, in whose jurisdiction the decedent has been arrested, of the date and place of death of the decedent.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section, nor shall there be any appropriation made by this act, because the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1136

An act to amend Sections 226 and 5353 of the Public Utilities Code, relating to transportation of passengers.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 226 of the Public Utilities Code is amended to read:

226. "Passenger stage corporation" includes every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between fixed termini or over a regular route except those, 98 percent or more of whose operations as measured by total route mileage operated, are exclusively within the limits of a single city or city and county, or whose operations consist solely in the transportation of bona fide pupils attending an institution of learning between their homes and such institution.

For the purposes of this section, the percentage of the route mileage within the limits of any city shall be determined by the Public Utilities Commission on the first day of January of each year, and such percentage so determined shall be presumed to continue for the year.

"Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation or management of any passenger stage over any

public highway in this state, whether between fixed termini or over a regular route or otherwise, engaged in the transportation of any pupils or students to and from a public or private school, college or university, or to and from activities of a public or private school, college or university, where the rate, charge, or fare for such transportation is not computed, collected, or demanded on an individual fare basis.

"Passenger stage corporation" does not include the transportation of persons in a passenger vehicle having a seating capacity of 15 passengers or less from place of residence to place of employment, if the driver himself is on the way to or from his place of employment.

"Passenger stage corporation" does not include that part of the operations of any corporation or person engaged in the ownership, control, operation or management of any medical transportation vehicles.

SEC. 2. Section 5353 of the Public Utilities Code is amended to read:

5353. The provisions of this chapter do not apply to:

(a) Transportation service rendered wholly within the corporate limits of a single city or city and county.

(b) Transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to authority vested by the provisions of the Education Code.

(c) Common carrier transportation services between fixed termini or over a regular route which are subject to authorization pursuant to the provisions of Article 2 (commencing with Section 1031), Chapter 5, Part 1, Division 1 of this code.

(d) Transportation services occasionally afforded for farm employees moving to and from farms on which employed when such transportation is performed by the employer in vehicles owned or leased by him, or by a nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 4 (commencing with Section 1190), Division 6 of the Agricultural Code, and without any requirement for the payment of compensation therefor by the employees.

(e) Transportation service rendered by a publicly owned transit system.

(f) Passenger vehicles carrying passengers on a noncommercial enterprise basis.

(g) Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.

(h) Passenger vehicles having a seating capacity of 15 passengers or less in a single daily round trip carrying at least three persons from place of residence to place of employment, if the driver himself is on the way to or from his place of employment.

(i) Medical transportation vehicles.

SEC. 3. This act does not constitute a change in, but is declaratory of, the preexisting law.

CHAPTER 1137

An act to amend Section 117.8 of the Code of Civil Procedure, relating to small claims courts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 117.8 of the Code of Civil Procedure is amended to read:

117.8. (a) The judgment shall be conclusive upon the plaintiff. The defendant may appeal the judgment to the superior court in the county in which the matter was heard, provided that, if the defendant seeks any affirmative relief by way of a claim in the small claims court, he shall not have the right to appeal from the judgment on the claim.

(b) If the defendant did not appear at the hearing in the small claims court, as a prerequisite to appeal, the defendant shall have (1) filed, within 30 days after the clerk has mailed by first-class mail notice of entry of judgment, a motion in the small claims court to vacate the judgment, and (2) appeared at any hearing on the motion, or have submitted written justification for not appearing at such hearing and written evidence in support of the motion. In addition the court must have denied or failed to decide the motion within 60 days after it was filed.

(c) If the defendant appeared at the hearing in the small claims court on the motion to vacate the judgment, or has submitted a written justification for not appearing and written evidence in support of the motion, and the motion was denied or not decided within 60 days, the defendant may appeal to the superior court only as to the denial of the motion to vacate the judgment. If the superior court finds that the defendant's motion to vacate the judgment should have been granted, the superior court may hear the defendant's appeal without recalendaring the matter, provided the defendant has previously complied with the practice and procedure established pursuant to Section 117.10.

(d) If the defendant was not properly served pursuant to Section 116.4 and did not appear at the hearing in the small claims court, the defendant may move to vacate the judgment within 180 days after he or she discovers or should have discovered that judgment was entered against him or her. Such motion shall be supported by declaration under penalty of perjury. The court may stay enforcement of the judgment pending a hearing and determination

of the motion. The notice of motion and supporting declaration shall be on simple nontechnical forms approved or adopted by the Judicial Council.

CHAPTER 1138

An act to amend Section 830.3 of, and to repeal Section 830.12 of, the Penal Code, and to amend Section 12820 of, and to add Section 12821 to, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 830.3 of the Penal Code is amended to read:

830.3. (a) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(c) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(d) (1) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code are peace officers. The authority of any such peace officers extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(2) Other deputies of the Department of Fish and Game

deputized pursuant to Section 851 of the Fish and Game Code, and county fish and game wardens deputized pursuant to Section 875 of such code, are peace officers, provided that the exclusive duty of such deputies or county fish and game wardens shall be the enforcement of the provisions of the Fish and Game Code and the regulations made pursuant thereto.

(e) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary fire wardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(f) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(g) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(h) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(i) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(j) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department or fire protection agency of the state, or a county, city, or district regularly paid and employed as such, are peace officers; provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the primary duty, except as provided in Section 8597 of the Government Code, of fire department or fire protection agency members other than arson investigators when acting as peace

officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(k) The Chief and such inspectors of the Bureau of Food and Drug as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers; provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(*l*) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers; provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(m) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 25429 of the Education Code.

(n) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers; provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(o) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Abuse and the Office of Statewide Health Planning and Development, are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department or office. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, the investigators shall not carry firearms.

(p) Persons designated as security officers by a municipal utility district pursuant to Section 12820 of the Public Utilities Code are peace officers while engaged in the performance of their duties as security officers.

(q) The authority of any peace officer listed in subdivisions (c) through (p), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 830.6 of this code, or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any

other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action.

SEC. 2. Section 830.12 of the Penal Code is repealed.

SEC. 3. Section 12820 of the Public Utilities Code is amended to read:

12820. (a) A district may employ a suitable security force. The employees of the district that are designated by the general manager as security officers shall have the authority and powers conferred by Section 830.3 of the Penal Code upon peace officers. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training pursuant to Title 4 (commencing with Section 13500) of Part 4 of the Penal Code.

(b) Every security officer employed by a district shall conform to the standards for peace officers of the Commission on Peace Officer Standards and Training. Any officer who fails to conform to such standards shall not continue to have the powers of a security officer.

SEC. 4. Section 12821 is added to the Public Utilities Code, to read:

12821. (a) Notwithstanding the provisions of Section 4467 or 4471.3 of the Health and Safety Code, any violation of a rule or regulation of a district adopted pursuant to Section 4465 or 4471 of the Health and Safety Code shall be a misdemeanor unless the district by ordinance declares any such violations to be an infraction.

(b) Every violation declared an infraction pursuant to subdivision (a) shall be punishable by (1) a fine not exceeding fifty dollars ($50) for a first violation; (2) a fine not exceeding one hundred dollars ($100) for a second violation of the same ordinance within one year; and (3) a fine not exceeding two hundred fifty dollars ($250) for each additional violation of the same ordinance within one year.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1139

An act to amend Sections 6904, 6905, 6913, 6916, 6921, and 6924 of, to amend and renumber Section 6902 of, to add Sections 6902, 6909, 6910, 6911, 6912, 6918, 6919, 6922, 6925.1, and 6925.2 to, and to repeal Sections 6908, 6909, 6910, 6911, 6912, 6918, 6919, and 6922 of, the Public Resources Code, relating to geothermal resources.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 6902 of the Public Resources Code is amended and renumbered to read:

6901. This article shall be known and may be cited as the Geothermal Resources Act.

SEC. 2. Section 6902 is added to the Public Resources Code, to read:

6902. The Legislature hereby finds and declares that development of geothermal resources beneath state lands is an essential element in the development of additional energy sources for the State of California. It is further recognized by the Legislature that different parcels of state lands have varying degrees of potential for the successful development of geothermal resources. As some parcels display strong indications of geothermal resources and likelihood of commercially producible energy which could be let at competitive lease sale, and other parcels indicate potential but need additional exploration, and still other parcels have never been explored, the flexible leasing program established by this chapter is necessary to promote more rapid and extensive geothermal development on state lands.

SEC. 3. Section 6904 of the Public Resources Code is amended to read:

6904. Permits and leases for exploration and development of geothermal resources on lands belonging to the state and leases for the development of geothermal resources reserved by the state may be issued by the commission as provided in this article. For purposes of this article, state lands shall be defined as all lands owned by the state, including school lands, lieu lands, proprietary lands, tidelands, submerged lands, swamp and overflowed lands, and beds of navigable rivers and lakes, and lands in which geothermal resources have been reserved to the state.

SEC. 4. Section 6905 of the Public Resources Code is amended to read:

6905. Permits and leases may be issued pursuant to this article only to those who qualify for permits and leases under Section 6801.

SEC. 5. Section 6908 of the Public Resources Code is repealed.

SEC. 6. Section 6909 of the Public Resources Code is repealed.

SEC. 7. Section 6909 is added to the Public Resources Code, to read:

6909. The commission may grant nonexclusive geological or geophysical exploration permits for geothermal resources upon such terms and conditions as the commission may prescribe, but any such permit shall not give the permittee any preferential right to a geothermal resources lease.

SEC. 8. Section 6910 of the Public Resources Code is repealed.

SEC. 9. Section 6910 is added to the Public Resources Code, to read:

6910. (a) Subject to the provisions of Section 6906, the commission may issue a prospecting permit to the first qualified applicant therefor under such rules and regulations as it may prescribe for lands which have not been selected by the commission for lease by competitive public bid. An application for a permit shall be denied if, prior to the issuance of the permit, the lands are selected by the commission for lease by competitive public bid.

The applicant shall submit for the commission's approval a prospecting program, including a time schedule, which may include, but not be limited to, the conduct of surveys, tests, or experiments using geological, geophysical, or other exploratory methods, including exploration drilling. Such prospecting program shall be specified in the terms and conditions of the prospecting permit. At a minimum, each prospecting permit issued under this article shall provide that the permittee is required to drill a geothermal well during the term of the permit, and such term shall not be extended pursuant to subdivision (b) unless the permittee has commenced the drilling or applied for the necessary permits to drill such a well. Rental shall escalate each year until a well is drilled, whereupon the rental, royalties, and other terms shall be as specified in Section 6913. The escalating rental shall be one dollar ($1) per acre during the first year, not more than five dollars ($5) per acre during the second year, and not more than twenty-five dollars ($25) per acre during the third year and every year thereafter. In the event the permittee elects to quitclaim its interest in a permit prior to the expiration of the initial two-year term, its obligation to drill a geothermal well shall thereupon terminate.

(b) A prospecting permit shall give to the permittee the exclusive right for a term of two years to prospect for geothermal resources upon lands included within such prospecting permit. The commission may, in its discretion, extend the term of any prospecting permit for a period not exceeding two years; provided that the combination of the term and extension of any prospecting permit shall not exceed a total of four years. The commission may amend or terminate any permit issued by it within the term or within the extension, if any, with the consent of the permittee.

(c) Upon the discovery of geothermal resources in commercial quantities within the prospecting permit area, the permittee shall be entitled to a lease by the commission if provided as a term of the permit, for such lands within the permit area. The terms of such lease shall include the royalties and other terms contained in Section 6913.

(d) Obligations imposed by a prospecting permit or lease

pursuant to this section may be suspended during such time as a lessee is prevented from complying therewith by wars, riots, acts of God, laws, rules and regulations from any federal, state, county or municipal agency, or by such other unusual conditions as are beyond the control of the lessee.

SEC. 10. Section 6911 of the Public Resources Code is repealed.

SEC. 11. Section 6911 is added to the Public Resources Code, to read:

6911. (a) Lands may be selected for lease by the commission and shall be leased by competitive bid on the basis of a cash bonus, net profit, or other single biddable factor.

(b) In leasing lands the commission may prescribe in the lease document an exploration and development program. The commission shall consider all applicable economic factors, including market conditions, and the cost of drilling for, producing, and utilizing geothermal resources.

(c) Lands so selected for lease by the commission shall be leased to the highest responsible qualified bidder under such rules and regulations as the commission may prescribe for notice to the public of terms and conditions of the sale, receipt of bid, and awarding of the lease.

SEC. 11.2. Section 6912 of the Public Resources Code is repealed.

SEC. 11.4. Section 6912 is added to the Public Resources Code, to read:

6912. (a) In case of an application for a permit or lease covering lands which have been sold by the state, subject to a reservation by the state of the geothermal resources thereof, by any person other than the owner of the surface of such lands, the owner may within six months from the date of service of notice of such application file an application for a permit or lease. Such notice shall be served by the applicant together with a copy of the application. If the owner files such application and is a qualified person, his application shall be granted subject to all the provisions of this article. If the owner fails to exercise the rights granted by this section, such rights shall terminate and the applicant shall be permitted to proceed with his application.

(b) In the event of a competitive lease sale, after the commission has determined the highest competitive bid thereon, the owner of the surface of such lands may within 10 days after notification by the commission submit a bid identical to such highest acceptable bid, in which case the commission shall issue a lease to the owner. If the owner fails to file such a bid within such time, the commission may proceed with the award of the bid to other than such owner.

SEC. 12. Section 6913 of the Public Resources Code is amended to read:

6913. Each prospecting permit and lease issued under this article shall provide for the following rentals and royalties with respect to geothermal resources produced, saved and sold from the lands included within said permit or lease:

(a) Prospecting permits and the leases which result therefrom shall include but not be limited to a royalty of not less than 10 percent of the gross revenue, exclusive of charges, approved by the commission, made or incurred with respect to transmission or other services or processes, received from the sale of steam, brines, from which no minerals have been extracted, and associated gases at the point of delivery to the purchaser thereof. Leases issued pursuant to a competitive lease sale may include in addition to the biddable factors a royalty of not more than 16⅔ percent of the gross revenue, exclusive of charges, approved by the commission, made or incurred with respect to transmission or other services or processes, received from the sale of steam, brines, from which no minerals have been extracted, and associated gases at the point of delivery to the purchaser thereof.

(b) A royalty of not less than 2 percent of the gross revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids in the first marketable form as to each such mineral product or chemical compound for the term of the lease.

(c) An annual rental payable in advance of not less than one dollar ($1) per acre or fraction thereof for each year of a lease. Annual rental for prospecting permits shall be subject to the provisions of subdivision (a) of Section 6910.

(d) If, after the discovery of geothermal resources in commercial quantities, the total royalties due to the state during any calendar year do not equal or exceed a sum equal to two dollars ($2) per acre for each acre or fraction thereof then included in the permit or lease, the permittee or the lessee shall, within 60 days after the end of the year, pay such sum as is necessary to equal a minimum royalty of two dollars ($2) per acre.

(e) For leases and prospecting permits which may be converted into a lease, in existence prior to January 1, 1979, the royalties specified herein shall be subject to renegotiation after 30 years from the effective date of the lease and at 10-year intervals thereafter. The first renegotiated royalty rate shall not exceed 30 percent royalty, and in subsequent renegotiations the royalty rate shall not increase by more than 50 percent over the royalty rate of the prior period. In no case shall the lessee's liability for renegotiated royalties exceed 50 percent of its net profits, nor shall the lessee's renegotiated royalty be less than the royalty rate under which the lease was issued except as provided for in Section 6916. Net profits for the purposes of this subdivision shall be calculated from the effective date of the negotiated royalties. For leases entered into on and after January 1, 1979, the royalties shall be subject to renegotiation not sooner than 20 years nor later than 30 years from the initial commercial operation, which shall be 30 days after the first generating unit has operated for a consecutive 24-hour period, and at 10-year intervals thereafter. Such renegotiations shall not increase by more than 50 percent the maximum royalties due during the immediately

preceding period. The time of first renegotiation for leases entered into after January 1, 1979, shall reflect the Public Utility Commission's policy on accelerating rates of amortization of facilities utilizing geothermal resources and approval of terms for producer-utility supply contracts.

(f) The commission may, in lieu of payment due the state, exercise the right to take its share of geothermal resources in kind as specified in a lease agreement. If additional facilities are necessary to enable the state to take its royalty share of geothermal resources in kind, the state or its purchaser of geothermal resources shall provide such additional facilities at its own expense, or if the lessee agrees to provide such additional facilities, the lessee shall be compensated for all direct labor and material costs in providing such additional facilities by the state's purchaser or, if the state elects, by deduction from royalties due the state. Whenever the commission exercises the right to take geothermal resources in kind, the commission shall make and enter into contracts or agreements for the disposition and sale of such geothermal resources only with the highest responsible bidder upon competitive bidding, and in accordance with procedures set forth in rules and regulations adopted by the commission. All specifications and forms for the purpose of inviting bids in connection with such disposition and sale shall be adopted by the commission prior to publication of notice to bidders. Should no bids be received, or should the commission determine to reject any and all bids because of the insufficiency thereof, the commission may negotiate and enter into agreements for such disposition and sale under terms and conditions deemed by the commission to be in the best interests of the state.

(g) Royalty payments shall be made pursuant to the provisions of subdivisions (a) and (b). However, for all geothermal resources used by the permittee or lessee and not sold, the gross revenue therefrom shall be determined as though said geothermal resources had been sold to a third person at the then prevailing market price, in the same market area, and under the same marketing conditions; provided, however, that royalties shall not be payable for geothermal resources used by the permittee or lessee in prudent business operations associated with the development and utilization of the resource or in the production of any geothermal mineral products or chemical compounds recovered from geothermal fluids in first marketable form which are subject to the payment of royalties under subdivision (a) or (b).

SEC. 13. Section 6916 of the Public Resources Code is amended to read:

6916. The commission independently or upon the advice of the Geothermal Resources Board, may waive, suspend, or reduce the rental or minimum royalty for the lands included in any permit or lease, or any portion thereof, and waive, suspend, alter, or amend the operating requirements contained in the lease or regulations promulgated hereunder affecting operations of the lease or permit,

in the interests of conservation, and to encourage the greatest ultimate recovery of geothermal resources if the commission determines that such action is necessary or beneficial to promote development or finds that the permit or lease cannot be successfully operated under the permit or lease terms or under the regulations. The commission shall file a report with the Legislature annually on all waivers, suspensions, reductions, alterations or amendments made by the commission pursuant to the provisions of this section together with the reasons therefor.

SEC. 13.2. Section 6918 of the Public Resources Code is repealed.

SEC. 13.4. Section 6918 is added to the Public Resources Code, to read:

6918. Leases under this article shall be for a primary term not to exceed 10 years and so long thereafter as geothermal resources are being or capable of being produced or utilized in commercial quantities, if the lessee is in compliance with the terms and conditions of an exploration and development program specified in the lease pursuant to Section 6911.

SEC. 14. Section 6919 of the Public Resources Code is repealed.

SEC. 15. Section 6919 is added to the Public Resources Code, to read:

6919. Whenever it appears to the commission that wells drilled upon private or public lands are draining or may drain geothermal resources from lands owned by the state, or where the provisions of Section 6922 are deemed by the commission to be impracticable in the particular case by reason of the small size, or irregular configuration of the property, or its inaccessibility from surface drillsites reasonably available or obtainable, the commission, in lieu of following the provisions of Sections 6911 and 6922, may negotiate and enter into agreements with the owners or operators of such wells on private or public lands for the payment of compensation to the state for such drainage, or may negotiate and enter into leases for the development of the state lands through drilling from adjoining lands only.

SEC. 16. Section 6921 of the Public Resources Code is amended to read:

6921. A permittee or lessee may, upon the approval of the commission and pursuant to the provisions of Chapter 4 (commencing with Section 3700) of Division 3, drill special wells, convert producing wells or reactivate and convert abandoned wells for the sole purpose of reinjecting geothermal resources or the residue thereof. If the lessee realizes a profit on such operations or if the geothermal resources proposed for reinjection are produced from other than state leased lands, then the commission may charge such consideration as is determined to be in the public interest, not to exceed the net profits or royalties payable under the lease.

SEC. 17. Section 6922 of the Public Resources Code is repealed.

SEC. 18. Section 6922 is added to the Public Resources Code, to read:

6922. No prospecting permit or lease shall be made for less than 640 acres nor more than 5,760 acres and any such permit or lease shall embrace a reasonably compact area. A prospecting permit or lease may be issued for a parcel less than 640 acres if such parcel is isolated from or not contiguous with other parcels of land available for a prospecting permit or lease hereunder. No person, association, or corporation shall take, hold, own, or control at one time, whether acquired directly from the commission under this article or otherwise, any direct or indirect interests in state geothermal leases or prospecting permits exceeding 25,600 acres. In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or prospecting permit shall be such party's proportionate part of the total lease or prospecting permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage, except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 10 percent of the stock or other instruments of ownership or control of such association or corporation. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease or prospecting permit will be charged with a similar percentage of the total acreage. No limitation shall apply to the number of prospecting permits or leases granted under this article. In the unitizing of acreage by two or more lessees pursuant to a cooperative or unit plan of development or operation approved by the commission, accountable acreage of a party owning an interest shall be his pro rata share and any lease or portion so committed shall continue in force so long as committed to the plan beyond the expiration date of its primary term. Any lease eliminated from any approved cooperative plan of development shall continue in effect for the original term of the lease or for two years after its elimination from the plan or the termination thereof, whichever is longer, and so long thereafter as geothermal resources are being produced or utilized in commercial quantities. A purchaser of geothermal resources pursuant to a sales contract approved by the commission shall not be deemed to have a direct or indirect interest in geothermal leases or prospecting permits.

SEC. 19. Section 6924 of the Public Resources Code is amended to read:

6924. Where the surface of state-owned lands sought for use or development of geothermal resources or the waters thereon are under the jurisdiction of a state department or agency other than the commission, the commission may issue permits or leases under this article only with the consent of and subject to such reasonable terms and conditions as may be prescribed by such other department or agency to insure the adequate utilization of the surface of the lands or the waters thereon for the purposes for which they are then being administered or for which they were acquired, provided, however,

that such other department or agency shall not prescribe any terms and provisions inconsistent with this article.

Notwithstanding the provisions of Section 6217, as of June 30th of each year, a sum that is 50 percent of the revenue received by the state for the fiscal year ending on such June 30th, pursuant to leases for the development of geothermal resources on the surface of lands under the jurisdiction of such state department or agency, shall be available for appropriation by the Legislature for the support of, and for apportionment and transfer by the State Controller to, such state department or agency.

SEC. 20. Section 6925.1 is added to the Public Resources Code, to read:

6925.1. Whenever, as determined by the commission, any operation conducted under a geothermal exploration permit, prospecting permit, or lease pursuant to this article constitutes an unreasonable risk to the health, safety, or welfare of any human being or of pollution or contamination caused in any manner or resulting from such operations, the commission shall order an immediate suspension of any drilling and production operations, except those which are corrective, protective, or mitigative. Such operations shall not be resumed until the commission determines that adequate corrective measures have been taken. The commission may delegate the power to order a cessation of operations to its executive officer. Resumption of operations shall only be permitted by the commission.

SEC. 21. Section 6925.2 is added to the Public Resources Code, to read:

6925.2. Notwithstanding any other provision of this article, the commission may, at its discretion, issue a lease to the first qualified applicant for a parcel of less than 640 acres if the geothermal resources to be developed on this parcel are utilized entirely for purposes other than electricity generation. The terms, conditions, rentals, royalities, drilling requirements, and development programs of such leases shall be as determined by the commission. If there is an existing geothermal resources lease or permit for such land, the applicant shall obtain the permission of the lessee or permittee.

SEC. 22. The State Lands Commission is authorized to amend prospecting permits and leases pursuant to this act.

CHAPTER 1140

An act to amend Section 8655 of, and to add Section 8101.6 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 8101.6 is added to the Revenue and Taxation Code, to read:

8101.6. (a) No refund of any tax shall be granted on motor vehicle fuel used in propelling passenger carrying vehicles, except six cents ($0.06) of the tax imposed upon each gallon of motor vehicle fuel used in propelling passenger carrying vehicles used for the transportation of persons for hire, compensation, or profit of the following:

(1) Any transit district, transit authority, or city owning and operating a local transit system itself or through a wholly owned nonprofit corporation.

(2) Any private entity providing transportation services under contract or agreement, excepts general franchise agreements, with a public agency authorized to provide public transportation services, only for fuels consumed while providing services under such contracts or agreements entered into subsequent to the effective date of this act.

(3) Any passenger stage corporation subject to the jurisdiction of the Public Utilities Commission when the motor vehicles of such passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity; provided, however, that the exemption is not extended to any line or lines operated by such passenger stage corporation which shall exceed 50 miles of one-way route mileage.

(4) Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

(b) The exemption provided for in subdivision (a) shall not be applicable to motor vehicle fuel used by a charter-party carrier of passengers. The term "charter-party carrier of passengers" has the same meaning as that specified in Section 5360 of the Public Utilities Code and shall further include those transportation services described in subdivisions (a) and (e) of Section 5353 of the Public Utilities Code, if such transportation service is rendered as contract carriage and not as common carriage of passengers.

SEC. 2. Section 8655 of the Revenue and Taxation Code is amended to read:

8655. (a) This section shall be known and may be cited as the Mills-Hayes Act.

(b) No tax shall be imposed upon fuel used by:

(1) Any transit district, transit authority, or city owning and operating a local transit system itself or through a wholly owned nonprofit corporation.

(2) Any private entity providing transportation services under contract or agreement, except general franchise agreements, with a public agency authorized to provide public transportation services, only for fuels consumed while providing services under such contracts or agreements entered into subsequent to the effective date of this act.

(3) Any passenger stage corporation subject to the jurisdiction of the Public Utilities Commission when the motor vehicles of such passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity for the transportation of persons for hire, compensation, or profit; provided, however, that the exemption is not extended to any line or lines operated by such passenger stage corporation which shall exceed 50 miles of one-way route mileage.

(4) Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

(c) Notwithstanding the exemption provided for by subdivision (b), any system, corporation, or carrier using fuel exempt under the provisions of subdivision (b) shall, for the privilege of operating vehicles on state highways and freeways, make a payment equal to one cent ($0.01) for each gallon of such exempt fuel used. The payments required by this subdivision shall be paid to the State Board of Equalization in the manner prescribed by the board, and such payments shall be treated as a tax for all purposes of this part.

(d) The exemption provided for in subdivision (b) and the payments provided for in subdivision (c) shall not be applicable to fuel used by a charter-party carrier of passengers. The term "charter-party carrier of passengers" has the same meaning as that specified in Section 5360 of the Public Utilities Code and shall further include those transportation services described in subdivisions (a) and (e) of Section 5353 of the Public Utilities Code, if such transportation service is rendered as contract carriage and not as common carriage of passengers.

(e) There are in the State of California many local bus transit operators in need of financial assistance from sources other than the local property tax. These operators are performing essential public transit service as a vital counterpart of the streets and highways. It is the purpose of this section to provide relief from the payment of use fuel tax for local transit operators and it is the intent of the Legislature that the funds accruing to such operators shall be used for the improvement of their transit operations and to aid in

providing better transit service to and from places of employment.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect, and shall become operative January 1, 1979.

CHAPTER 1141

An act to amend Section 103 of the Business and Professions Code and Section 8894 of the Government Code, relating to compensation of members of state boards and commissions.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 103 of the Business and Professions Code is amended to read:

103. Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing at Section 500) and Division 3 (commencing at Section 5000), and in Chapter 2 (commencing at Section 18600) and Chapter 3 (commencing at Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective chapters.

Each such member shall receive a per diem of fifty dollars ($50) for each day actually spent in the discharge of official duties, and he shall be reimbursed for his traveling and other expenses necessarily incurred in the performance of his duties.

Such payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money in that fund.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on such boards, commissions, or committees on any day when the officer or employee also received compensation for his or her regular public employment.

SEC. 2. Section 8894 of the Government Code is amended to read:

8894. The members of the Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of fifty dollars ($50) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by the State Board of Control.

CHAPTER 1142

An act to add Section 99152 to the Public Utilities Code, relating to transportation.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 99152 is added to the Public Utilities Code, to read:

99152. Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, shall be subject to regulations of the Public Utilities Commission relating to safety appliances and procedures.

The commission shall inspect all work done on such a guideway and may make such further additions or changes necessary for the purpose of safety to employees and the general public.

The commission shall enforce the provisions of this section.

CHAPTER 1143

An act to amend Section 1808.4 of the Vehicle Code, relating to records.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of any sheriff, undersheriff, or deputy sheriff of a county, regularly employed and paid as such; any policeman of a city; any member of the California Highway Patrol; any member of the California State Police Division; any member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code and the California State University and Colleges Police Department appointed pursuant to Section 89560 of the Education Code; peace officer employees of the Department of Justice, the Department of Corrections, and the Department of the Youth Authority appearing in any record of the department is confidential and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department, if the peace officer requests

confidentiality of that information. Any record of the department containing such a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. Whenever any person requests the home address of a peace officer that has been made confidential pursuant to this section, the department shall inform that person of the law enforcement agency of which the peace officer is a member.

CHAPTER 1144

An act to add Chapter 17.5 (commencing with Section 7301) to Division 7 of Title 1 of the Government Code, and to add Section 14792 to the Revenue and Taxation Code, relating to open-space lands.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Chapter 17.5 (commencing with Section 7301) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.5. OPEN-SPACE LAND DEDICATION

7301. For purposes of this chapter:

(a) "Land" means any right or interest, including development rights, in real property which is essentially unimproved and devoted to an open-space use as defined in Section 65560 or real property which is of significant historic or cultural value.

(b) "Person" means a transferee of property subject to tax under the Inheritance Tax Law (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), which includes open-space land, where the total property transferred to such transferee does not include sufficient money or other liquid assets to pay the state inheritance tax on the transfer.

(c) "Secretary" means the Secretary of the Resources Agency.

7302. Any person may offer land included within a transfer described in Section 7301 to the state for preservation as open-space land.

7303. The inheritance tax referee shall certify the appraised value of the land and the amount of taxes due and payable by the transferee. Such certification shall accompany any offer of land to the state.

7304. The secretary shall establish criteria to evaluate the significance of the land offered and the feasibility of the state accepting any right or interest in such land. Land offered to the state

pursuant to this chapter shall be accepted or rejected by the secretary within 120 days of the receipt of the offer.

7305. Upon receipt of the offer, the secretary shall notify the county in which the land being offered is located of the state's consideration. The secretary shall consult with the Wildlife Conservation Board and the Department of Parks and Recreation to evaluate any offer. Pursuant to Section 11005, the secretary shall accept an offer of land only upon approval of the Director of Finance.

7306. Upon acceptance of an offer of land pursuant to this chapter, the secretary shall forward appropriate certification of such acceptance to the county treasurer.

7307. Land accepted by the state pursuant to this chapter shall be maintained and preserved in perpetuity as open-space land, except as provided in Section 7308.

7308. Unless otherwise provided in the terms of acceptance or prohibited by encumbrances on the land, real property conveyed to the state under this chapter may be conveyed, transferred, exchanged, or granted only if the secretary finds that the state has received in exchange land of comparable significance or a combination of money and land of comparable significance, at least equal to the fair market value of the land conveyed, transferred, exchanged, or granted.

7309. Notwithstanding Section 14103 of the Revenue and Taxation Code, inheritance tax imposed on land offered to the state pursuant to this chapter shall not be delinquent until 160 days after receipt of an offer by the secretary.

SEC. 2. Section 14792 is added to the Revenue and Taxation Code, to read:

14792. The county treasurer shall accept a notification of acceptance issued under Section 7306 of the Government Code as payment of any taxes or other amounts due under this part by a transferee to whom such notification of acceptance has been issued up to the amount in such notification; provided, however, that there shall be no refund for any excess of the amount certified as the appraised value of the land under Section 7303 and the amount due under this part.

CHAPTER 1145

An act to add Section 2188.6 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 2188.6 is added to the Revenue and Taxation Code, to read:

2188.6. (a) Whenever real property has been divided into condominiums, as defined in Section 783 of the Civil Code, the initial seller or purchaser of an individual unit in a condominium project may request by November 1 that the county assessor separately assess such unit for property tax purposes and that a separate tax bill be sent to such purchaser for the current fiscal year.

(b) The tax due on the individual unit shall constitute a lien solely on that unit.

(c) Property taxes due on other units within the condominium project shall not constitute a lien on any unit which has been separately assessed, and for which a separate tax bill has been sent to the seller or purchaser of the separate unit.

SEC. 2. Notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1146

An act to amend Sections 4827, 13200, 13201, and 13205 of the Business and Professions Code, and to amend Sections 597v, 597w, and 597z of the Penal Code, relating to animals.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 4827 of the Business and Professions Code is amended to read:

4827. Nothing in this chapter prohibits any person from:

(a) Practicing veterinary medicine upon his own animals.

(b) Being assisted in such practice by his employees when employed in the conduct of such person's business.

(c) Being assisted in such practice by some other person gratuitously.

(d) The lay testing of poultry by the whole blood agglutination test.

(e) Making any determination as to the status of pregnancy, sterility, or infertility upon livestock at the time an animal is being inseminated, providing no direct charge is made for such determination.

(f) Administering sodium pentobarbitol for euthanasia of sick, injured, homeless, or unwanted domestic pets or animals, without the presence of a veterinarian when such person is an employee of a public pound or humane society and has received proper training in the administration of sodium pentobarbitol for such purposes.

SEC. 2. Section 13200 of the Business and Professions Code is amended to read:

13200. For purposes of this chapter "animal euthanasic device" means any carbon monoxide gas chamber or nitrogen gas cabinet used by a person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency, for the killing of any dog or cat.

SEC. 3. Section 13201 of the Business and Professions Code is amended to read:

13201. Except as provided in Section 13206, the State Sealer shall semiannually inspect all animal euthanasic devices to ascertain that each such device meets the standards set forth in subdivisions (a) to (d), inclusive, of Section 597u of the Penal Code, or subdivisions (a), (d), and (e) of Section 597x of the Penal Code, as the case may be.

SEC. 4. Section 13205 of the Business and Professions Code is amended to read:

13205. No animal euthanasic device, whether sealed or not, which does not meet the standards prescribed by either Section 597u or 597x of the Penal Code shall be used for the killing of dogs or cats.

SEC. 5. Section 597v of the Penal Code is amended to read:

597v. No person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall kill any newborn dog or cat whose eyes have not yet opened by any other method than by the use of chloroform vapor or gas or by inoculation of barbiturates.

SEC. 6. Section 597w of the Penal Code is amended to read:

597w. No person, peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall kill any dog or cat by the use of any high-altitude decompression chamber.

SEC. 7. Section 597z of the Penal Code is amended to read:

597z. A humane officer appointed under Section 607f of the Civil Code or the State Sealer may enter any facility utilizing a carbon monoxide gas chamber or nitrogen gas cabinet for the purpose of inspecting the operation of such facility to determine whether there is compliance with Sections 597u and 597x.

CHAPTER 1147

An act to amend Section 1241 of the Business and Professions Code; and to amend Section 437.10 of, and to repeal and add Chapter 1 (commencing with Section 1200) of Division 2 of, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1241 of the Business and Professions Code is amended to read:

1241. This chapter applies to all clinical laboratories in California except those owned and operated by:

(a) The United States of America, or any department, agency, or official thereof acting in his official capacity.

(b) An individual licensed physician and surgeon for laboratory work performed on his own patients. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

(c) An academic institution accredited by an accrediting agency approved by the department when clinical laboratory procedures are performed for teaching or research purposes only, if the results of any examinations performed in such laboratories are not used in the diagnosis or treatment of disease.

(d) The Department of Corrections, except that after July 1, 1979, such exception shall not apply to any clinical laboratory of the Department of Corrections which conducts biomedical or behavioral research pursuant to Title 2.1 (commencing with Section 3500) of Part 3 of the Penal Code.

(e) The California Youth Authority.

(f) A nonprofit corporation or association, which contracts with or employs individual licensed physicians and surgeons to render medical care and the operations of which are directly funded at least 80 percent by the United States government, for laboratory work performed on the patients of such physicians and surgeons and under the supervision of such physicians and surgeons. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

(g) A primary care clinic specified in subdivision (a) of Section 1204 of the Health and Safety Code, which contracts with or employs individual licensed physicians and surgeons to render medical care for laboratory work performed on the patients of such physicians and surgeons. If direct or indirect referred work is received from any source, all provisions of this chapter shall apply.

SEC. 2. Section 437.10 of the Health and Safety Code is amended

to read:

437.10. Except as otherwise exempted by Sections 437.11, 437.13, or this section, projects requiring a certificate of need issued by the State Department of Health are the following:

(a) Construction of a new health facility, the increase of bed capacity in an existing health facility, the conversion of an existing health facility from on license category to another, or, on or after January 1, 1977, the conversion of a health facility's existing beds in one bed classification to a different bed classification. As used in this section, "license category" means any category of health facility set forth in Section 1250 and "bed classification" means any classification set forth in Section 1250.1. A facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all such bed classification changes do not at any point in time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if such use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2.

In addition, a facility may use an additional 5 percent of its beds in such manner if the director finds that seasonal fluctuations justify it.

(b) Establishment of a new specialty clinic, as defined in subdivision (b) of Section 1204, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It shall not constitute a project and no certificate of need shall be required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic shall also not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 1255, or the establishment, pursuant to subdivision (c) of Section 1255, of an emergency center which provides basic or comprehensive emergency medical services, as defined by regulation of the state department, or the establishment by a specialty clinic, as defined in subdivision (b) of Section 1204, of a new special service identified by or pursuant to Section 1203.

(d) The initial purchase or lease by a facility or by a clinic subject to licensure under Chapter 1 (commencing with Section 1200) of Division 2, of diagnostic or therapeutic equipment with a value in excess of one hundred fifty thousand dollars ($150,000) in a single fiscal year, or for which the cumulative cost exceeds such amount in more than one fiscal year. For purposes of this subdivision, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the state

department, shall be considered together.

(e) Any project requiring a capital expenditure for a health facility, or for a specialty clinic as defined in subdivision (b) of Section 1204, or for the services, equipment or modernization of such facility or clinic in excess of one hundred fifty thousand dollars ($150,000) in the current fiscal year or cumulation to an expenditure of one hundred fifty thousand dollars ($150,000) in the same fiscal year or subsequent fiscal years for a single project.

For the purposes of this subdivision, a "capital expenditure" shall mean any of the following:

(1) An expenditure, including an expenditure for a construction project undertaken by the facility or clinic as its own contractor, which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which exceeds one hundred fifty thousand dollars ($150,000). The cost of studies, surveys, legal fees, land, offsite improvements, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the physical plant and equipment with respect to which such exper diture is made shall be included in determining whether such cost exceeds one hundred fifty thousand dollars ($150,000). Where the estimated cost of a proposed project, including cost escalation factors appropriate to the area in which the project is located, is, within 60 days of the date on which the obligation for such expenditure is incurred, certified by a licensed architect or engineer to be one hundred fifty thousand dollars ($150,000) or less, such expenditure shall be deemed not to exceed one hundred fifty thousand dollars ($150,000) regardless of the actual cost of such project. However, in any such case where the actual cost of the project exceeds one hundred fifty thousand dollars ($150,000) the health facility or clinic on whose behalf such expenditure is made shall provide written notification of such cost to the state department not more than 30 days after the date on which such expenditure is incurred. Such notification shall include a copy of the certified estimate.

(2) The acquisition, under lease or comparable arrangement, or through donation, of any facility or part thereof, or equipment for a facility or clinic, the expenditure for which would have been considered a capital expenditure if the person had acquired it by purchase. For the purposes of this paragraph, "donation" shall not include a bequest.

(3) Any change in a proposed capital expenditure which itself meets the criteria set forth in this subdivision.

A "capital expenditure" shall include the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department. For the purposes of this subdivision, "project" shall not include the purchase of real property for future use or the transfer of ownership, in whole or part, of an existing health facility or clinic

or the acquisition of all or substantially all of the assets or stock thereof.

For the purposes of this subdivision, "modernization" means the alteration, expansion, repair, remodeling, replacement, or renovation of existing buildings, including initial equipment thereof, and the replacement of equipment of existing buildings.

The state department shall annually adjust the capital expenditure thresholds set forth in subdivisions (d) and (e) of this section to reflect changes in the cost of living, as determined by the Department of Finance, using 1976 as the base year.

SEC. 3. Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code is repealed.

SEC. 4. Chapter 1 (commencing with Section 1200) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 1. CLINICS

Article 1. Definitions and General Provisions

1200. As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics, free clinics, and employees' clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, rehabilitation clinics, and multispecialty clinics.

1201. "License" means a basic permit to operate a clinic. A license may only be granted to a clinic of a type enumerated in Section 1204, and such license shall not be transferable.

1202. "Special permit" means a permit issued in addition to a license authorizing the clinic to offer one or more special services, as defined in Section 1203 or regulations adopted pursuant thereto.

1203. "Special service" means a functional division, department,

or unit of a clinic, or a clinic that is organized, staffed, and equipped to provide a specific type or types of care which have been identified by this section or by regulations of the state department, and for which the state department has established special standards for ensuring the quality of such care. Special services shall include, but need not be limited to, birth services.

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) Only the following defined classes of primary care clinics shall be eligible for licensure:

(1) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(2) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(3) An "employees' clinic" means a clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising such group.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic which is not part of a hospital

and which provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include the offices of private physicians or dentists in individual or group practice.

(2) A "chronic dialysis clinic" means a clinic which provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic which, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) A "multispecialty clinic" means a clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic. A multispecialty clinic may be supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. The term "multispecialty clinic" does not include the offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

The licensure of multispecialty clinics shall be on a trial basis, and until further authorization is provided by statute, the state department shall concurrently license no more than five multispecialty clinics.

1205. Except as provided in Section 1206, no person, firm, partnership, association, corporation, or public agency shall operate, establish, manage, conduct or maintain a clinic in this state without first obtaining a license therefor as provided in this chapter; nor shall any such person, firm, partnership, association, corporation, or public agency provide any special service without obtaining a special permit therefor. However, any licensed clinic offering any service which is later designated by regulation of the state department as a special service shall be allowed to continue offering such service until the state department evaluates the quality of such service and issues a special permit therefor or notifies the licensee that it is not eligible for a special permit and must cease and desist from offering such service.

1206. The provisions of this chapter do not apply to the following:

(a) Except with respect to specialty clinics specified in paragraphs (2) and (4) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed physicians and surgeons, by one or more licensed dentists, by one or more licensed podiatrists, or by one or more licensed chiropractors and used as an office for the practice of medicine and surgery, dentistry, podiatry, or chiropractic, as the case may be, by such persons, regardless of the name used publicly to identify such place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision shall preclude the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under the provisions of Chapter 2 (commencing with Section 1250) of this division.

(f) Any freestanding clinical or pathological laboratory licensed under the provisions of Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated on an intermittent basis by a local health department or by a community or free clinic. Such an intermittent or satellite clinic shall, however meet all requirements of law, including administrative regulations, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

1207. The state department shall inspect and license clinics, and shall inspect and approve clinics to offer special services.

1208. The state department may provide consulting services upon request to any clinic to assist in the identification or correction

of deficiencies or the upgrading of the quality of care provided by the clinic.

1209. This chapter does not authorize any person other than a licensed practitioner of a healing art, or any corporation except charitable or professional corporations as expressly provided in this chapter, to furnish to any person any advice, services, or treatment within the scope of such professional licensure.

This chapter does not authorize any person, other than a licentiate of a healing art acting within the scope of his license, to engage directly or indirectly in the practice of medicine and surgery, dentistry, optometry, podiatry, or pharmacy.

This chapter does not regulate, govern, or affect in any manner the practice of medicine and surgery, pharmacy, dentistry, optometry, chiropractic, podiatry, or drugless healing by any person duly licensed to engage in such practice.

1210. The director shall appoint a statewide Advisory Committee on Primary Care Clinics consisting of 16 members to advise him on the delivery of care and services through community clinics, free clinics, and employee clinics. The members shall be appointed from among persons recommended to the director by persons and organizations concerned with the delivery of health care in this state.

The term of office of all members of the advisory committee shall be four years, except for the initial appointments, of which eight members shall serve for two-year terms and eight members who shall serve for four-year terms. In the event of a vacancy due to resignation, death, or absence from three consecutive meetings, the director shall fill the vacancy within 30 days following receipt of written notification by the chairperson of the advisory committee that such vacancy has occurred.

The advisory committee shall conduct regular meetings not less than once every two calendar months or as often on the call of the chairperson as necessary to carry out the purposes and duties of the advisory committee. Nothing in this chapter shall prohibit the advisory committee from conducting meetings of committees on a regional basis to assist it in conducting its affairs, and such meetings shall not be considered as a regular advisory committee meeting.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the actual performance of their duties. For the purposes of budgeting support for the advisory committee, including the expenses of the members of the committee and necessary staff, the committee shall be organizationally located within the State Department of Health Services. To the extent sufficient funds have been appropriated in the Budget Act, the State Department of Health Services may provide staff support to the advisory committee as the state department may deem is necessary for the conduct of the advisory committee's business.

1211. The Advisory Committee on Primary Care Clinics shall be solely advisory in character and shall not be delegated any

administrative authority or responsibility. The advisory committee shall assist, advise, and make written recommendations to the director regarding existing and proposed regulations, policies, and administrative practices affecting the delivery of services by community, free, or employee clinics. The advisory committee shall be consulted prior to the adoption of any regulations affecting the delivery of care by community, free, or employee clinics.

The advisory committee shall prepare and transmit to the director an annual report on the activities of the advisory committee, which may include recommendations for activities which will assist in the delivery of health services in the state.

Article 2. Administration

1212. Any person, firm, association, partnership, or corporation desiring a license for a clinic or a special permit for special services under the provisions of this chapter, shall file with the state department a verified application on forms prescribed and furnished by the state department, containing the following:

(a) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If applicant is a firm, association, partnership, trust, corporation, or other artificial or legal entity, like evidence shall be submitted as to the members, partners, trustees or shareholders, directors, and officers thereof and as to the person who is to be the administrator of, and exercise control, management, and direction of the clinic for which application is made.

(b) If the applicant is a partnership, the name and principal business address of each partner, and, if any partner is a corporation, the name and principal business address of each officer and director of the corporation and name and business address of each stockholder owning 10 percent or more of the stock thereof.

(c) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation, and where applicant is a stock corporation, the name and principal business address of each stockholder holding 10 percent or more of applicant's stock and, where any such stockholder is a corporation, the names and principal business address of each officer and director of such corporate stockholder.

(d) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations promulgated under this chapter by the state department.

(e) The name and address of the clinic, and if applicant is a professional corporation, firm, partnership, or other form of organization, evidence that applicant has complied with the requirements of the Business and Professions Code governing the use of fictitious names by practitioners of the healing arts.

(f) The name and address of the professional licentiate

responsible for the professional activities of the clinic and such licentiate's license number and professional experience.

(g) The class of clinic to be operated, the character and scope of advice and treatment to be provided, and a complete description of the building, its location, facilities, equipment, apparatus, and appliances to be furnished and used in the operation of the clinic.

(h) Sufficient operational data to allow the state department to determine the class of clinic which the applicant proposes to operate and the initial license fee to be charged.

(i) Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

(j) Applicants for a license or special permit covering a project within the meaning of Section 437.10 shall submit a copy of a certificate of need as required by the state department.

1213. Any person, firm, association, partnership, corporation or other legal entity desiring a license for a clinic shall be exempt from the requirements of Chapter 1 (commencing with Section 15000) of Division 12.5.

1214. Each application under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by a fee, as follows:

(1) For all primary care clinics licensed pursuant to this chapter, the annual fee shall be thirty dollars ($30).

(2) For all specialty clinics licensed pursuant to this chapter, the annual fee shall be two thousand dollars ($2,000).

1215. Each new license issued pursuant to this chapter shall expire 12 months from the date of its issuance, and each special permit shall expire on the expiration date of the underlying license. The state department shall transmit to the licensee a renewal fee invoice at least 45 days prior to the expiration date of the license. Failure by the clinic licensee to make timely payment of the renewal fee shall result in the expiration of the license and special permit, if any. A renewal license or special permit may be issued for a period not to exceed two years if the holder of the license or special permit has not been found to be in violation of any statutory requirements, regulations, or standards during the preceding license period. In all other cases, the renewal license or special permit shall be issued for a period not to exceed one year. Timely application for renewal, accompanied by the necessary fee, shall be deemed equivalent to renewal of a license or special permit, where the department is unable to issue a renewal license or special permit on or before the expiration date.

1216. Every clinic holding a license shall, on or before the 15th day of February each year, file with the licensing and certification division of the state department and the Office of Statewide Health Planning and Development upon forms to be furnished by the state department, a verified report showing the following:

(a) Number of patients during the preceding year.

(b) Total number of administrative or other charges or fees collected from patients.

(c) Total amount from other sources necessary to make up the total operating cost of the clinic for the previous year.

(d) Total operating cost for clinic for the previous year.

(e) Additional information as may be required by regulation of the state department.

In the event a clinic fails to file a timely report, the state department may suspend the license of the clinic until such time as the report is completed and filed with the state department.

1217. An applicant for a license to operate a primary care clinic, as specified in subdivision (a) of Section 1204, which meets all requirements for licensure under this chapter, except that it proposes to operate its clinic out of an existing facility that does not satisfy all of the applicable building requirements for the physical plant, other than fire and life safety requirements, may be issued a license by the state department if (1) the applicant establishes, by evidence satisfactory to the state department, that, where possible and feasible, the applicable building requirements have been met, and (2) the applicant submits a plan of modernization acceptable to the state department, which sets forth the proposed changes to be made, during a period not to exceed three years from date of initial licensure, to bring the applicant's facility into substantial conformance with applicable building requirements. Failure to complete the plan of modernization as approved and within the time allowed shall constitute a basis for revocation or nonrenewal of the applicant's license unless the applicant earlier applies for and obtains a waiver from the state department. The director may waive building requirements for primary care clinics where he determines that (1) such requirements cannot be met by an applicant or that they can be met only at an unreasonable and prohibitive cost, (2) such requirements are not essential to protect the health and safety of the clinic staff or the public it serves, and (3) the granting of the waiver applied for is in the public interest.

1218. Upon the filing of an application for a license or for a special permit, or for renewal of a license or special permit, the state department shall investigate the facts set forth in the application and, if the state department finds that the statements contained in the application are true, that the establishment or the continued operation of the clinic and any special services it provides are in conformity with the intent and purpose of this chapter, and that the applicant is in compliance with the provisions of this chapter and the rules and regulations of the state department, the state department shall issue to the applicant the license or special permit, or renewal thereof, applied for. However, if the director finds that the statements contained in the application are not true, or that the establishment or the continued operation of the clinic, or its special services, is not in conformity with the intent and purpose of this chapter, or that applicant is not in compliance with the provisions of

this chapter and the rules and regulations promulgated hereunder, he shall deny the applicant the license or special permit or renewal thereof applied for. The state department shall either grant or deny a license or special permit within 100 days of the filing of a completed application for such license or special permit.

1220. Immediately upon the denial of any application for a license or special permit or a renewal thereof, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all powers granted therein.

The director may issue a temporary license to operate a community clinic or free clinic when the director determines that the facility is in compliance with the provisions of this chapter, except that the facility has applied for but not yet been granted an exemption from federal taxation as required by subdivision (a) of Section 1204. In such cases, the prospective licensee shall submit to the director a copy of its application for exemption from federal taxation which it has sent to the federal Internal Revenue Service. The director shall request the Franchise Tax Board to review the application and to render an opinion regarding whether it is likely that the exemption will be granted. If the Franchise Tax Board so determines, the director may proceed to issue a temporary license. Such temporary license shall expire 12 months from the date of its issuance or upon the facility being granted such exemption from federal taxation. The director shall issue no more than three successive temporary licenses to one facility.

Article 3. Regulations

1225. The state department shall adopt, and may from time to time amend or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state. The rules and regulations for primary care clinics shall be separate and distinct from the rules and regulations for specialty clinics.

All regulations relating to licensed clinics in effect on December 31, 1977, which were adopted by the state department, shall remain in full force and effect until altered, amended, or repealed by the director.

1226. The regulations shall prescribe the kinds of services which

may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and minimum standards for providing the services offered. Such minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

However, regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic which operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

1227. Any duly authorized officer, employee, or agent of the state department may upon presentation of proper identification, enter and inspect any building or premises at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter or any regulations adopted pursuant to this chapter.

1228. Every clinic for which a license or special permit has been issued shall be periodically inspected. The frequency of inspections shall depend upon the type and complexity of the clinic, or special service to be inspected. Inspections shall be conducted no less often than once every two years and as often as necessary to insure the quality of care being provided. During inspections, representatives of the state department shall offer such advice and assistance to the clinic as they deem appropriate. The state department may contract with local health departments for the assumption of any of the state department's responsibilities under this chapter. In exercising the authority so delegated, the local health department shall conform to the requirements to this chapter and to the rules, regulations, and standards of the state department. The state department shall reimburse local health departments for services performed pursuant to this section, and such payments shall not exceed actual cost. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department and filed with the state department.

1229. The state department shall notify any clinic of all deficiencies in its compliance with the provisions of this chapter or the rules and regulations adopted hereunder, which are discovered or confirmed by inspection, and the clinic shall agree with the state department upon a plan of correction which shall give the clinic a reasonable time to correct such deficiencies. During such allotted time, a list of deficiencies and the plan of correction shall be conspicuously posted in a clinic location accessible to public view. If at the end of the allotted time, as provided in the plan of correction, the clinic has failed to correct the deficiencies, the state department shall assess the licensee a civil penalty not to exceed fifty dollars ($50) per day, until the state department finds the clinic in compliance. In such case, the state department may also initiate action against the clinic to revoke or suspend the license. Nothing in this chapter shall

be deemed to prohibit a clinic which is unable to correct the deficiencies, as specified in a plan of corrections, for reasons beyond its control from voluntarily surrendering its license pursuant to Section 1245 prior to the assessment of any civil penalty or the initiation of any revocation or suspension proceeding.

1230. Reports on the results of each inspection shall be kept on file in the state department along with the plan of correction and clinic comments. The inspection report may include a recommendation for reinspection. All inspection reports, lists of deficiencies, and plans of correction shall be public records open to public inspection.

1231. All clinics shall maintain compliance with the licensing requirements. Such requirements shall not, however, prohibit the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel qualifications, or the conducting of pilot projects, provided such exceptions are carried out with provision for safe and adequate patient care and with prior written approval of the state department. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the state department. The state department shall approve or deny such request within 60 days of submission. Such approval shall be in writing and shall provide for the terms and conditions under which the exception is granted. A denial shall be in writing and shall specify the basis therefor.

If after investigation the state department determines that a clinic granted a waiver pursuant to this section is operating in a manner contrary to the terms or conditions of the waiver, the director shall immediately revoke the waiver.

1232. No clinic which permits sterilization operations for contraceptive purposes to be performed therein, nor the medical staff of such clinic, shall require the individual upon whom such a sterilization operation is to be performed to meet any special nonmedical qualifications, which are not imposed on individuals seeking other types of operations in the clinic. Such prohibited nonmedical qualifications shall include, but not be limited to, age, marital status, and number of natural children.

Nothing in this section shall prohibit requirements relating to the physical or mental condition of the individual or affect the right of the attending physician to counsel or advise his patient as to whether or not sterilization is appropriate. This section shall not affect existing law with respect to individuals below the age of majority.

Article 4. Offenses

1235. Any person who violates any of the provisions of this chapter or who willfully or repeatedly violates any rule or regulation promulgated under this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail for a

period not to exceed 180 days or by both such fine and imprisonment.

1236. The director may bring an action to enjoin the violation or threatened violation of Section 1205 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

1237. Any action brought by the director against a clinic shall not abate by reason of a sale or other transfer of ownership of the facility which is a party to the action, except with express written consent of the director.

1238. The district attorney of every county shall, upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation within his county of any provision of this chapter or regulations adopted hereunder.

Article 5. Suspension and Revocation

1240. The state department may suspend or revoke any license or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct inimical to the public health, welfare, or safety of the people of the State of California in the maintenance and operation of the premises or services for which a license or special permit is issued.

1241. Proceedings for the suspension, revocation, or denial of licenses or special permits under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by such provisions. In the event of conflict between the provisions of this chapter and such provisions of the Government Code, the provisions of the Government Code shall prevail.

1242. The director may temporarily suspend any license issued to a specialty clinic or special permit prior to any hearing, when in his opinion such action is necessary to protect the public welfare. The director shall notify the licensee or holder of a special permit of the temporary suspension and the effective date thereof, and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense by the licensee or holder of a special permit, the

director shall set the matter for hearing within 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits; provided, however, that the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

If the provisions of this chapter or the rules or regulations promulgated by the director are violated by a licensed surgical clinic or chronic dialysis clinic or holder of a special permit which is a group, corporation, or other association, the director may suspend the license or special permit of such organization or may suspend the license or special permit as to any individual person within such organization who is responsible for such violation.

1243. The withdrawal of an application for a license or a special permit after it has been filed with the state department, shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or special permit upon any ground provided by law, or to enter an order denying the license or special permit upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license or a special permit issued by the state department, or its suspension, forfeiture or cancellation by order of the state department or by order of a court of law, or its surrender without the written consent of the state department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee or holder of a special permit upon any ground provided by law or to enter an order suspending or revoking the license or special permit or otherwise taking disciplinary action against the licensee or holder of a special permit on any such ground.

1244. Any license or special permit revoked pursuant to this chapter may be reinstated pursuant to the provisions of Section 11522 of the Government Code.

1245. Any licensee or holder of a special permit may, with the approval of the state department, surrender his license or special permit for suspension by the state department for a temporary period not to exceed 24 consecutive months. Any license or special permit suspended pursuant to this section may be reinstated by the state department on receipt of an application and after an inspection showing full compliance with all applicable licensing requirements.

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

Primary care and specialty care clinics are the principal source of low-cost ambulatory health care for a significant portion of the medically underserved population of the state. It is of utmost

urgency that a uniform licensing program be put into operation to insure continuity of quality care and to guaranty efficient state administration of the licensing program.

CHAPTER 1148

An act to add Section 65923.5 to, and to repeal, add, and repeal, Article 4 (commencing with Section 65945) of Chapter 4.5 of Division 1 of Title 7 of, the Government Code, relating to development projects.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 65923.5 is added to the Government Code, to read:

65923.5. The Office of Planning and Research may call a conference of parties to resolve questions or mediate disputes arising from permit applications on any proposed development project.

SEC. 2. Article 4 (commencing with Section 65945) of Chapter 4.5 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 3. Article 4 (commencing with Section 65945) is added to Chapter 4.5 of Division 1 of Title 7 of the Government Code, to read:

Article 4. Consolidated Meetings and Hearings on Development Projects

65945. An applicant for a development project whose application has been accepted as complete or any state agency with permit authority over the development project may request that the Office of Planning and Research consolidate public meetings or hearings permitted or required by law or regulation by any state agency for approval of such development project. The Office of Planning and Research shall, if so requested, consolidate public meetings and hearings to the maximum extent practicable in such a way as to reduce the time required for approval or denial of the development project. The Office of Planning and Research shall minimize public costs when consolidating public meetings and hearings. Where possible and consistent with other provisions of this chapter, consolidated public hearings and meetings shall be scheduled at times and places regularly used for public meetings and hearings by participating agencies.

65945.1. Affected federal and local agencies shall be encouraged to participate in consolidated meetings and hearings held pursuant to this article when doing so would reduce the time required for approval or denial of a development project.

65945.2. If the Office of Planning and Research proposes to consolidate public meetings and hearings pursuant to this article on a development project that requires a coastal permit, it shall immediately notify the California Coastal Commission and the appropriate regional commission. If the California Coastal Commission notifies the Office of Planning and Research within 30 days after receiving such notice of its intention to remove the coastal permit application from the regional coastal commission for direct consideration and action pursuant to Section 30333.5 of the Public Resources Code, the Office of Planning and Research shall not include the regional coastal commission in the consolidated public meeting or hearing and shall attempt pursuant to this article to include the California Coastal Commission in the consolidated public meeting or hearing.

65945.3. Consolidations of meetings or hearings conducted pursuant to this article shall be for procedural purposes only and shall not be construed as consolidating the statutory responsibilities of the public agencies conducting the hearings.

65945.5. If the Office of Planning and Research consolidates meetings or hearings pursuant to Section 65945, it shall cause a notice to be published once a week for three consecutive weeks in a newspaper of general circulation in the county, city and county, or city in which the project is proposed to be constructed or operated.

65945.7. The notice required by Section 65945.5 shall generally describe the proposed project and its location, list the public agencies which will participate in the consolidated public meeting or hearing, and identify the types of permits required from each agency. The notice shall also indicate where copies of all such project applications are available for public inspection, and shall indicate the time and place of any consolidated public meeting or hearing.

65945.9. When practical, consolidated public meetings or hearings held pursuant to Section 65945 should be held in the county, city and county, or city in which the project is proposed not later than 20 days after the date of the last publication of the notice.

65946. The Director of Planning and Research, or his or her designee, shall establish an agenda for, and preside at, the consolidated public meeting or hearing which shall be recorded in a manner suitable for transcription. A representative of each public agency shall conduct that portion of the meeting or hearing that provides information necessary for approving or denying permits required from that agency.

65946.1. Each public agency whose meeting or hearing is consolidated shall be represented by a person or persons with authority to approve or deny the permit or permits required from that agency for the project, or by a hearing officer if such agency is authorized by statutes or regulation to use such an officer to conduct hearings or recommend findings of fact or conclusions of law to the public agency as a basis for making its permit decisions.

65946.3. The applicant, or his or her designee, members of the

public, or representatives of public agencies may present relevant information and materials supporting their views concerning each permit required for the development project. Presentations may be made in person, by counsel, or by written testimony.

65947. At the request of the applicant or any public agency, a transcript shall be prepared of the consolidated public meeting or hearing. Within 30 days of the close of the record of a consolidated public meeting or hearing, the Office of Planning and Research shall forward a copy of such transcript to each participating public agency and the applicant, and shall make available to any interested party for inspection, a copy of the transcript of the meeting or hearing.

65947.1. Within 45 days of the close of the record of a consolidated public meeting or hearing held pursuant to this article, each participating agency shall forward to each other participating agency and the applicant a summary of the findings of fact made by that agency at the consolidated public meeting or hearing. Whenever an agency approves or denies a permit under consideration at a consolidated public meeting or hearing, the agency shall set forth the basis for its decision including reference to findings of fact made at the consolidated public meeting or hearing. Such findings shall not constitute the sole and exclusive record upon which such decisions are made. Nothing in this section shall be interpreted as precluding separate agency hearings, or any other agency action authorized by law, but every effort shall be made to minimize the use of separate hearings.

65947.3. The Office of Planning and Research shall establish a set of charges for the conduct of the consolidated public meeting or hearing, preparation of the transcript of the consolidated public meeting or hearing, and the summary of findings of fact which shall be collected from an applicant when application is made for assistance under the provisions of this article.

65947.5. Upon conclusion of a consolidated public meeting or hearing conducted in accordance with the provisions of this article, the Office of Planning and Research shall bill and collect from each participating public agency a proportionate share of costs of each single development project consolidated public meeting or hearing other than those costs charged to the applicant.

65947.6. This article shall remain in effect only until July 1, 1980, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1980, deletes or extends such date.

CHAPTER 1149

An act relating to victims of crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Department of Justice shall establish the capability for the utilization of the print identification computer to aid in the identification of suspects who injure and terrify victims and make available such capabilities to local police agencies.

It is the intent of the Legislature with this bill to provide an appropriation for the establishment of an initial data base of 80,000 fingerprint cards to be used at this time in conjunction with the Hillside Strangler case involving three Southern California police agencies, and thereafter to be used to permit other local police agencies, statewide, to utilize the data base to aid in the identification of suspects in their respective jurisdictions.

SEC. 2. The sum of fifty-four thousand dollars ($54,000) is hereby appropriated from the General Fund to the Department of Justice for expenditure during the 1977–78 and 1978–79 fiscal years to carry out the provisions of this act; provided, that the Department of Justice is directed to seek additional funds for this purpose from other available funding sources.

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

In order to provide the adequate technology which is available to solve these serious crimes, the act must go into effect immediately.

CHAPTER 1150

An act to amend Section 4016 of, and to add Sections 4010.8 and 4010.9 to, the Health and Safety Code, relating to water.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 4010.8 is added to the Health and Safety Code, to read:

4010.8. For water systems with less than 200 service connections, the local health officer shall be responsible for the enforcement of this chapter. For the purposes of this chapter, unless the context otherwise requires, and whenever enforcement activities involve water systems with less than 200 service connections, the local health officer shall act for the department.

SEC. 2. Section 4010.9 is added to the Health and Safety Code, to read:

4010.9. Local health officers shall carry out all the provisions of this chapter for any public water system supplying fewer than 200 service connections, and in counties which do not have a local health officer, the provisions of this chapter shall be carried out by the department, including the issuance of permits, except that variances and exemptions may only be granted or revoked by the local health officer following the procedures as provided in Sections 4021 and 4022 subject to the approval of the department.

Fees for the permits may be prescribed by the local governing body in accord with Section 510 to pay the reasonable expenses of the local health officer in carrying out the provisions of this chapter and regulations adopted thereunder.

SEC. 3. Section 4016 of the Health and Safety Code is amended to read:

4016. If the department determines that the system will not be subject to backsyphonage under normal operating conditions and that the water to be furnished or supplied is such that under all the circumstances and conditions it is pure, wholesome, and potable and will not endanger the lives or health of human beings, it shall grant a permit authorizing the petitioner to furnish or continue to furnish or supply water.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because self-financing authority is provided in this act to cover such costs.

CHAPTER 1151

An act to add Section 12158.5 to the Fish and Game Code, relating to licenses.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 12158.5 is added to the Fish and Game Code, to read:

12158.5. For the purpose of invoking any provision of this code, or any rule, regulation, or order made or adopted under this code, relating to the revocation of any license or permit, a plea of nolo contendere or "no contest," or forfeiture of bail, shall constitute a conviction.

CHAPTER 1152

An act to add Title 4 (commencing with Section 3504) to Part 3 of Division 4 of the Civil Code, relating to motion pictures.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Title 4 (commencing with Section 3504) is added to Part 3 of Division 4 of the Civil Code, to read:

TITLE 4. MOTION PICTURES

3504. As used in this title:

(a) "Animal" means any amphibian, bird, mammal or reptile. It does not include any fish or insect.

(b) "Motion picture" means any motion picture, regardless of length or content, which is exhibited in a motion picture theater to paying customers, or is exhibited on television to paying customers or under the sponsorship of a paying advertiser. It shall not include motion pictures made for scientific, research, or educational purposes, or motion pictures exhibited as home movies, or amateur films, which are shown free or at cost to friends, neighbors or civic groups.

(c) "Person" means individuals, corporations, associations, partnerships, trustees, lessees, agents and assignees.

3505. (a) The exhibition of any motion picture, if any intentional killing of, or cruelty to, a human being or an animal is shown in the motion picture and such intentional killing of, or cruelty to, a human being or an animal actually occurred in the production of the motion picture for the purpose of such production, is a nuisance, which shall be enjoined, abated, and prevented.

(b) As used in this section, "killing" and "cruelty" mean conduct which both (1) results in the death or the infliction of any physical injury or wound, including, but not limited to, any temporary or permanent physical harm resulting from the administration of any drug or chemical, and (2) is patently offensive to the average person, applying contemporary statewide community standards. It does not include conduct committed against a human being to which the human being has given his or her consent. In determining whether conduct is patently offensive, the trier of fact may consider any or all of the following: (i) the degree or extent of the physical injury inflicted, (ii) the manner in which the injury is inflicted, (iii) the extent to which the injuring or wounding or acts resulting therein are depicted on the screen, (iv) the number of instances of infliction of injury, wound or harm occurring in the making of the motion picture, and (v) whether such conduct is lawful or unlawful under

any provision of law other than this title.

(c) For the purposes of this section, it shall not be a requirement that the entire motion picture and all of the conduct resulting therein be taken into account in determining whether a nuisance exists, and to this end, the Legislature finds and declares that any specific conduct which intentionally results in the killing of, or cruelty to, an animal or a human being in the making of a motion picture is unnecessary and is a nuisance, and that if a motion picture cannot be completed in the absence of such conduct, it is, therefore, a nuisance in its entirety.

3506. Whenever there is reasonable cause to believe that a nuisance as defined in this title is kept, maintained or is in existence in any county, the district attorney or the Attorney General, in the name of the people of the State of California, shall, on a proper showing, commence an action in equity to abate and prevent the nuisance and to perpetually enjoin the person conducting or maintaining it, and the owner, lessee or agent of the building, or place, in or upon which the nuisance exists, from maintaining or permitting it. As used herein, a proper showing to commence an action under this title must be based upon evidence independent of the motion picture itself that intentional killing of, or cruelty to, a human being or an animal actually occurred in the production of the motion picture for the purpose of such production.

3507. Whenever an action is initiated under this title to abate an alleged nuisance, an adversary trial on the merits shall be held pursuant to Section 3507.2. If the court finds that the exhibition of the particular motion picture constitutes a nuisance, it shall issue a permanent injunction to abate and prevent the continuance or recurrence of such nuisance. No temporary restraining order or preliminary injunction shall be granted in such an action. An appeal may be taken from an order issuing a permanent injunction, and any injunction issued pursuant to this title by the trial court may be stayed by such court pending the outcome of such appeal. No appeal may be taken from a ruling by the trial court denying an injunction requested under this title.

3507.1. In actions brought under this title, the motion picture shall be admissible into evidence. The burden of proof that the exhibition of the particular motion picture constitutes a nuisance shall be met by the district attorney or Attorney General only when clear and convincing evidence, independent of the motion picture itself, is provided that the acts alleged actually occurred in the production of the motion picture.

3507.2. Actions brought under this title shall be brought as promptly as possible. Such actions shall have precedence over all actions, excepting criminal proceedings and election contests. It is also the intent of the Legislature that actions commenced under this title be adjudicated in the most speedy and expeditious manner.

3507.3. Any violation or disobedience of an injunction or order expressly provided for by this title is punishable as a contempt of

court by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000).

3507.4. The distributor who furnished a motion picture to a person who is made a defendant in an action under this title, and the producer of a motion picture which is the subject of this title shall be jointly and severally liable, upon proof and after an opportunity to appear and interpose any appropriate defenses, to such person and the exhibitor for damages, including loss of profits, attorney's fees, and other costs of defending such action. Such distributor and such producer shall actively assist in such defense to the extent that such person possesses information necessary to such defense concerning the production of the motion picture which is not otherwise available to the defendant. The exhibitor shall not be liable upon any portion of any contract made on or after January 1, 1979, which requires the exhibition or advertisement of a motion picture subject to this title on or after the date of the filing of any action under this title, if the motion picture by final decision of a court is determined to be a nuisance under this title.

3508. (a) This title shall not apply to any of the following:

(1) The exhibition of any motion picture, such as a newsreel or documentary, involving acts of killing or cruelty which were not intentionally committed for the purpose of producing the motion picture.

(2) Any motion picture made, in whole or in part, prior to January 1, 1979.

(3) Any motion picture all or part of which has been edited or remade so that any previous conduct which constituted a nuisance under this title no longer appears.

(4) The taking of any animal as permitted by any provision of the Fish and Game Code or pursuant thereto in accordance with regulations adopted by the Fish and Game Commission unless the time, place, or manner of such taking violates any provision of law except this title. This title shall apply to any other animal whether or not the time, place, or manner of the taking is prohibited by any laws other than this title, however, this title shall not apply to the taking of any animal authorized by law in any other jurisdiction unless the time, place or manner of such taking is prohibited by law or regulation.

(5) A motion picture which includes scenes of killing or cruelty to animals if the acts constituting the killing or cruelty were authorized by the laws governing such acts in the jurisdiction where the scenes were filmed.

(6) Any motion picture which bears within its contents a statement from the producer of the motion picture that all scenes depicting animals were filmed without the intentional killing of, or cruelty to an animal or that any killing or cruelty to an animal was authorized by the laws of the jurisdiction where the scenes were filmed or that the film is otherwise exempt under this title.

(7) Any motion picture if the exhibitor thereof has a written signed

statement, or a copy thereof, from the producer of the motion picture that all scenes depicting animals were filmed without the intentional killing of, or cruelty to an animal or that any killing or cruelty to an animal was authorized by the laws of the jurisdiction where the scenes were filmed or that the film is otherwise exempt under this title.

(b) This title shall not apply in any case in which it would conflict with federal supremacy in the field of television broadcasting.

3508.1. Any producer who willfully misstates or causes to be misstated any fact contained in a statement under paragraph (6) or (7) of Section 3508 is guilty of a misdemeanor.

3508.2. If any provision of this title or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

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

CHAPTER 1153

An act to amend Sections 3202, 3203, and 12002 of, and to add Sections 3005.9, 3005.91, 3005.92, 3005.93, and 3005.94 to, the Fish and Game Code, relating to mammals, and making an appropriation therefor.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 3005.9 is added to the Fish and Game Code, to read:

3005.9. (a) It is unlawful to possess or confine any live cat (family Felidae), except house cats (Felis domesticus), except as provided in this division and in Section 3202. Any cat possessed or confined in violation of this section may be seized by the department for disposal as directed by the commission.

The commission shall promulgate regulations permitting the temporary confinement of cats, other than house cats, for the purpose of required veterinary treatment or care, or for utilization in television or motion picture productions.

The following institutions, as defined, are exempt from the provisions of this section:

(1) Zoos certified by the United States Department of Agriculture.

(2) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

In addition, any organization which, or individual who, exhibits or cares for cats, such as circuses or wildlife rehabilitation centers, in compliance with standards that safeguard the health and well being of the cats, as determined by the commission, shall be exempted from the provisions of this section.

(b) Subdivision (a) of this section shall not prohibit the possession or confinement of any cat by a person who had lawful possession of such cat on January 1, 1979, pursuant to a permit issued by the department under Section 2150 or Section 3200. The annual fee for such permit shall be set by the commission in an amount calculated to help cover the costs of administration. Progeny determined to have been conceived before January 1, 1979, are exempt from subdivision (b) of Section 3005.9 but are subject to department regulations regarding their possession or confinement.

The commission shall promulgate regulations regarding the possession or confinement of progeny determined to have been conceived after January 1, 1979. Such cats may be sold, transferred, or disposed of to the institutions defined as exempt under this section, when the sale, transfer, or disposal is pursuant to a department permit. Such permit shall specify the terms and conditions of sale, transfer, or disposal. No such cats shall be sold, transferred, or disposed of to private individuals.

This section does not apply to the lawful taking of mammals found to be injuring crops or property, nor to the taking of mammals under depredation permits, nor to the lawful taking of such mammals as authorized by the commission.

SEC. 2. Section 3005.91 is added to the Fish and Game Code, to read:

3005.91. The department pursuant to regulations of the commission shall at least annually inspect the cat facilities of each person holding a permit issued pursuant to regulations of the commission authorizing the possession of a cat, other than a house cat. Such inspection shall be to ensure that the animal is being held in conformity with law. The department shall charge an annual inspection fee of one hundred dollars ($100).

SEC. 3. Section 3005.92 is added to the Fish and Game Code, to read:

3005.92. (a) The commission shall promulgate regulations regarding the possession and confinement of privately owned cats (family felidae) other than house cats. Such regulations shall include the following requirements:

(i) Specific cage or enclosure standards for each cat species. Such

requirements shall be met by any person applying for a permit or renewal of a permit prior to such issuance or renewal.

(ii) That every cat be inspected by a licensed veterinarian every year, who shall thereafter issue a health certificate. The certificate shall be attached to the cage or enclosure of the examined cat.

(b) When it is shown that the holder of a permit issued pursuant to Section 2150, or a license issued pursuant to subdivision (c) of Section 3202, authorizing the possession or confinement of a cat, has been convicted of a violation of Section 3005.92, such permit or license may be revoked.

SEC. 4. Section 3005.93 is added to the Fish and Game Code, to read:

3005.93. The department shall make available upon request information on the possession of a cat, other than a house cat, and information on regulations and standards applicable to permit holders.

SEC. 5. Section 3005.94 is added to the Fish and Game Code, to read:

3005.94. The director may appoint a committee to advise him on the care of cats, other than house cats.

SEC. 6. Section 3202 of the Fish and Game Code is amended to read:

3202. There are three classes of domesticated game breeder's licenses, designated "class 1," "class 2," and "class 3."

(a) A class 1 domesticated game breeder's license authorizes the licensee to engage in all domesticated game breeding activities, except those involving mountain lions, and except that not more than one hundred seventy-five (175) Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, may be sold under a class 1 license.

(b) A class 2 domesticated game breeder's license is required in order to sell more than one hundred seventy-five (175) Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, and entitles the licensee to all the rights and privileges of a class 1 license.

(c) A class 3 domesticated game breeder's license authorizes the licensee to engage in all domesticated game breeding activities involving only mountain lions. A class 3 licensee shall be subject to the provisions of Sections 3005.91 and 3005.92.

SEC. 7. Section 3203 of the Fish and Game Code is amended to read:

3203. The department shall issue a class 1 domesticated game breeder's license upon the payment of a fee of five dollars ($5), a class 2 domesticated game breeder's license upon the payment of a fee of twenty-five dollars ($25), and a class 3 domesticated game breeder's license upon the payment of a fee set by the commission to help cover the costs of administration.

SEC. 8. Section 12002 of the Fish and Game Code is amended to read:

12002. The maximum punishment for a violation constituting a misdemeanor is a fine of five hundred dollars ($500) or imprisonment in the county jail for six months, or both, except as follows:

(a) The maximum punishment for violation of any of the following provisions is a fine of one thousand dollars ($1,000) or imprisonment in the county jail for one year, or both:

(1) Section 1059.

(2) Section 2052.

(3) Sections 3511, 4700, 5050, and 5515.

(4) Sections 4600 to 4606, inclusive.

(5) Subdivision (a) or (b) of Section 5650.

(6) Section 10500.

(b) The maximum punishment for violation of any of the following provisions is a fine of two thousand dollars ($2,000) or imprisonment in the county jail for one year, or both:

(1) Section 3005.9.

(2) A violation of commission regulations which is discovered pursuant to Section 3005.91 or 3005.92.

SEC. 9. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1154

An act to amend Section 801 of, and to add Sections 714 and 801.5 to, the Civil Code, to add Sections 65850.5, 66473.1, and 66475.3 to the Government Code, to add Section 17959.1 to the Health and Safety Code, and to amend and repeal Section 17052.5 of the Revenue and Taxation Code, relating to solar easements.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. This act shall be known and may be cited as the California Solar Rights Act of 1978.

SEC. 2. The Legislature hereby finds and declares that:

(a) Solar energy is a renewable, nonpolluting energy source.

(b) The use of solar energy systems will reduce the state's dependence on nonrenewable fossil fuels, supplement existing energy sources, and decrease the air and water pollution which

results from the use of conventional energy sources. It is, therefore, the policy of the state to encourage the use of solar energy systems. In order to insure uniform application of this policy in all parts of California, the provisions of this act shall be applicable to charter cities.

(c) The purpose of this act is to promote and encourage the widespread use of solar energy systems and to protect and facilitate adequate access to the sunlight which is necessary to operate solar energy systems.

SEC. 3. Section 714 is added to the Civil Code, to read:

714. Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property which effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

This section shall not apply to provisions which impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions which do not significantly increase the cost of the system or significantly decrease its efficiency, or which allow for an alternative system of comparable cost and efficiency.

For the purposes of this section, "solar energy system" shall be defined as set forth in Section 801.5.

SEC. 4. Section 801 of the Civil Code is amended to read:

801. The following land burdens, or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements:

1. The right of pasture;
2. The right of fishing;
3. The right of taking game;
4. The right-of-way;
5. The right of taking water, wood, minerals, and other things;
6. The right of transacting business upon land;
7. The right of conducting lawful sports upon land;
8. The right of receiving air, light, or heat from or over, or discharging the same upon or over land;
9. The right of receiving water from or discharging the same upon land;
10. The right of flooding land;
11. The right of having water flow without diminution or disturbance of any kind;
12. The right of using a wall as a party wall;
13. The right of receiving more than natural support from adjacent land or things affixed thereto;
14. The right of having the whole of a division fence maintained by a coterminous owner;
15. The right of having public conveyances stopped, or of stopping

the same on land;

16. The right of a seat in church;

17. The right of burial;

18. The right of receiving sunlight upon or over land as specified in Section 801.5.

SEC. 5. Section 801.5 is added to the Civil Code, to read:

801.5. (a) The right of receiving sunlight as specified in subdivision 18 of Section 801 shall be referred to as a solar easement. "Solar easement" means the right of receiving sunlight across real property of another for any solar energy system.

As used in this section, "solar energy system" means either of the following:

(1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, or for water heating; or

(2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, or for water heating.

(b) Any instrument creating a solar easement shall include, at a minimum, all of the following:

(1) A description of the dimensions of the easement expressed in measurable terms, such as vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects which would impair or obstruct the passage of sunlight through the easement.

(3) The terms or conditions, if any, under which the easement may be revised or terminated.

SEC. 6. Section 65850.5 is added to the Government Code, to read:

65850.5. The legislative body of any city or county shall not enact an ordinance which has the effect of prohibiting or of unreasonably restricting the use of solar energy systems other than for the preservation or protection of the public health or safety. This prohibition shall be applicable to charter cities since the promotion of the use of nonfossil fuel sources of energy, such as solar energy and energy conservation measures, is a matter of statewide concern.

This section shall not apply to ordinances which impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions which do not significantly increase the cost of the system or significantly decrease its efficiency, or which allow for an alternative system of comparable cost and efficiency.

For the purposes of this section, "solar energy system" shall have the same meaning as set forth in Section 801.5 of the Civil Code.

SEC. 7. Section 17959.1 is added to the Health and Safety Code, to read:

17959.1. No local ordinance enacted pursuant to this chapter shall have the effect of prohibiting or of unreasonably restricting the use of solar energy systems, other than for the preservation of the public health and safety. The provisions of this section shall apply to charter cities.

This section shall not apply to ordinances which impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions which do not significantly increase the cost of the system or significantly decrease its efficiency, or which allow for an alternative system of comparable cost and efficiency.

As used in this section, "solar energy system" shall be defined as set forth in Section 801.5 of the Civil Code.

SEC. 8. Section 66473.1 is added to the Government Code, to read:

66473.1. The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the tentative map is filed.

The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

SEC. 9. Section 66475.3 is added to the Government Code, to

read:

66475.3. For divisions of land for which a tentative map is required pursuant to Section 66426, the legislative body of a city or county may by ordinance require, as a condition of the approval of a tentative map, the dedication of easements for the purpose of assuring that each parcel or unit in the subdivision for which approval is sought shall have the right to receive sunlight across adjacent parcels or units in the subdivision for which approval is sought for any solar energy system, provided that such ordinance contains all of the following:

(1) Specifies the standards for determining the exact dimensions and locations of such easements.

(2) Specifies any restrictions on vegetation, buildings and other objects which would obstruct the passage of sunlight through the easement.

(3) Specifies the terms or conditions, if any, under which an easement may be revised or terminated.

(4) Specifies that in establishing such easements consideration shall be given to feasibility, contour, configuration of the parcel to be divided, and cost, and that such easements shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or a structure under applicable planning and zoning in force at the time such tentative map is filed.

(5) Specifies that the ordinance is not applicable to condominium projects which consist of the subdivision of airspace in an existing building where no new structures are added.

For the purposes of this section, "solar energy systems" shall be defined as set forth in Section 801.5 of the Civil Code.

For purposes of this section, "feasibility" shall have the same meaning as set forth in Section 66473.1 for the term "feasible".

SEC. 10. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraph (2) or (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges and costs associated with the acquisition of a solar easement as specified in paragraph (6), but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned and controlled by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000).

(3) With regard to premises in California which are owned and controlled by the taxpayer, other than single-family dwellings, on which the cost (including installation charges, but excluding interest charges and costs associated with the acquisition of a solar easement) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be the greater amount of three thousand

dollars ($3,000) or 25 percent of the cost of the solar energy system.

(4) Condominium owners, who install solar energy systems on such California premises which is owned cooperatively by them, shall be eligible to receive the credit provided by this section, in proportion to the number of households served by the systems.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow-reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of solar energy systems, and shall be eligible for the tax credit.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis.

(d) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) For the purposes of this section, the term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for dependent care services provided for in Section 17052.6, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(f) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(g) The term "solar energy system" means equipment—

(1) Which uses solar energy to heat or cool or produce electricity; and

(2) Which has a useful life of at least three years.

(h) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until

such credit is used. The credit shall be applied first to the earliest years possible.

(i) On or before January 1, 1978, the Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(j) Subject to the dollar limitations provided in paragraphs (2) and (3) of subdivision (a), if a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided by this section shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

SEC. 10.5. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges and costs associated with the acquisition of a solar easement as specified in paragraph (6), but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000). The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges and

costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow-reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of solar energy systems, and shall be eligible for the tax credit.

(7) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) With the exception of a husband and wife, if there is more than

one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

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

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18555.1, (relating to excess income tax withheld), Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Single-family dwelling" means a building used for residential

purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling.

SEC. 10.7. The provisions of Sections 10 and 10.5, as the case may be under Section 11.5, of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1980; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1981.

Sections 10 and 10.5, as the case may be under Section 11.5, of this act shall remain in effect only until January 1, 1981, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 11. The provisions of Section 66473.1 of the Government Code shall not apply to any tentative subdivision map which has been received and accepted as complete for processing prior to the effective date of this act.

SEC. 11.5. It is the intent of the Legislature, if this bill and

Assembly Bill No. 3623 are both chaptered and amend Section 17052.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 3623, that Section 17052.5 of the Revenue and Taxation Code, as amended by Section 1 of Assembly Bill No. 3623 be further amended on the operative date of this act in the form set forth in Section 10.5 of this act to incorporate the changes in Section 17052.5 proposed by this bill. Therefore, Section 10.5 of this act shall become operative only if Assembly Bill No. 3623 is chaptered before this bill and amends Section 17052.5, and in such case Section 10.5 of this act shall become operative on the operative date of this act and Section 10 of this act shall not become operative.

SEC. 12. If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, the remaining provisions shall not be affected but shall remain in full force and effect. To this end, the provisions of this act are severable.

CHAPTER 1155

An act to add Section 25309.5 to the Public Resources Code, relating to energy conservation.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 25309.5 is added to the Public Resources Code, to read:

25309.5. (a) The commission shall develop and transmit to the Governor and the Legislature, not later than January 1, 1980, a plan for the maximum feasible solar implementation in this state by the year 1990.

(b) The commission shall develop a program, on a continuous basis, on the use of solar energy in this state, including objectives in various market sectors, incentive measures to achieve target objectives, identifying technical, economic, institutional barriers to maximum feasible implementation, and identifying corrective measures to overcome such barriers. The commission shall transmit a report on such a program to the Governor and the Legislature, initially, not later than January 1, 1980, and thereafter include it in the report to be submitted pursuant to Section 25309.

CHAPTER 1156

An act to add Section 25406 to the Public Resources Code, relating to energy resources.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 25406 is added to the Public Resources Code, to read:

25406. (a) The commission shall undertake a study in order to develop a program to promote and increase the use of energy surveys and to ensure the quality and cost effectiveness of energy surveys to the public.

(b) The goal of the program is to achieve a 20-percent improvement in energy efficiency in the nonresidential sector by 1985 through expanded use of energy surveys.

(c) The study and the resulting program shall be developed with the assistance and cooperation of the Public Utilities Commission, publicly and privately owned utilities, the Department of Consumer Affairs, and businesses and firms engaged in energy surveying.

(d) The program shall include, but not be limited to, recommendations for all of the following:

(1) Standards and criteria for assessing the effectiveness and the cost effectiveness of energy surveys.

(2) Competency standards, educational requirements, and, if necessary, licensure of persons engaged in performing energy surveys, including private companies, utilities, and public agencies which provide energy surveying services to nonresidential energy users.

(3) Utilities' actions which will increase the use and implementation of effective energy surveys.

(4) Procedures for assessing the thoroughness, quality, effectiveness, and cost effectiveness of energy surveys undertaken by public utilities as part of their conservation programs, and procedures for verifying that utility energy surveys are being properly implemented.

(5) Incentives to businesses and industries to undertake energy surveys, and to implement the actions recommended by such surveys.

(6) Legislative actions and executive actions, including those of the commission and of the Public Utilities Commission, to promote the use of energy surveys and to ensure the quality and cost effectiveness of such surveys.

(e) For the purposes of this section, "energy survey" means the process of identifying energy use and energy waste in a facility, and recommending actions which will increase the energy efficiency of

that facility.

(f) The commission shall submit the study and program required by this section to the Governor and to the Legislature not later than December 31, 1979.

CHAPTER 1157

An act to amend Section 841, and to add Sections 210.1 and 842 to, the Welfare and Institutions Code, relating to juveniles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 210.1 is added to the Welfare and Institutions Code, to read:

210.1. The Youth Authority shall develop guidelines for the operation and maintenance of nonsecure placement facilities for persons alleged or found to be persons coming within the terms of Section 601 or 602.

SEC. 2. Section 841 of the Welfare and Institutions Code is amended to read:

841. The duties of a deputy probation officer, or a probation aide or volunteer under the supervision of a deputy probation officer, assigned to home supervision are to assure the minor's appearance at probation officer interviews and court hearings and to assure that the minor obeys the conditions of his release and commits no public offenses pending final disposition of his case. A deputy probation officer assigned to home supervision shall have a caseload of no more than 10 minors. Whenever possible, a minor shall be assigned to a deputy probation officer, probation aide, or volunteer who resides in the same community as the minor.

SEC. 3. Section 842 is added to the Welfare and Institutions Code, to read:

842. A probation volunteer is a person who donates personal services to the probation department and probationers without compensation. A probation aide may receive compensation for such services. Probation aides and volunteers shall not qualify for peace officer status pursuant to Section 830.5 of the Penal Code.

SEC. 4. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code.

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

In order to immediately implement the provisions of Chapter 1071 of the Statutes of 1976 (Assembly Bill No. 3121 of the 1975–76 Regular Session of the Legislature) it is necessary that this bill shall go into effect immediately.

CHAPTER 1158

An act to add Section 34470 to the Government Code, relating to charter commissions.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 34470 is added to the Government Code, to read:

34470. (a) A charter commission established for a city and county pursuant to this chapter on or after January 1, 1979, shall complete a proposed or revised charter and submit such charter to the electors of the city and county within two years of the date of the election of the charter commissioners and at the expiration of such period is abolished. Any charter commissions established for a city and county pursuant to this chapter prior to January 1, 1979, shall complete a proposed or revised charter and submit such charter to the electors of the city and county on or before December 31, 1980, and as of such date is abolished.

(b) A charter commission may submit portions of the proposed or revised charter to the electors periodically.

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

CHAPTER 1159

An act to amend Sections 17052.5 and 23601 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax", an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any solar energy system on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000). The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation

measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

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

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy

systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18555.1, (relating to excess income tax withheld), and Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Single-family dwelling" means a building used for residential purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any

one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling.

SEC. 1.5. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges and costs associated with the acquisition of a solar easement as specified in paragraph (6), but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000). The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of solar energy systems, and shall be eligible for the tax credit.

(7) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the

case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

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

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18555.1, (relating to excess income tax withheld), Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Single-family dwelling" means a building used for residential purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(6) (A) "Solar energy system" means the use of solar devices for

the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling.

SEC. 2. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any solar energy system on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000). The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit

provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The solar energy tax credit shall be claimed in the state franchise or income tax return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than a single-family dwelling, on which the cost (including installation charges but excluding interest charges) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant

provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year for which the credit is allowed.

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

(e) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(f) (1) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(g) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Single-family dwelling" means a building used for residential purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(5) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(6) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(7) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling.

(8) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling.

(9) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling.

SEC. 3. The provisions of Section 1 or 1.5 and Section 2 of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1980; provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1981.

Section 1 or 1.5 and Section 2 of this act shall remain in effect only until January 1, 1981, and as of such date are repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3250 are both chaptered and amend Section 17052.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 3250, that Section 17052.5 of the Revenue and Taxation Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 3250, and that on the operative date of Assembly Bill No. 3250 Section 17052.5 of the Revenue and Taxation Code as amended by Section 1 of this act be

further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 17052.5 proposed by Assembly Bill No. 3250. Therefore, Section 1.5 of this act shall become operative only if Assembly Bill No. 3250 is chaptered before this bill and amends Section 17052.5, and in such case Section 1.5 of this act shall become operative on the operative date of Assembly Bill No. 3250.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable years and income years beginning after December 31, 1977.

CHAPTER 1160

An act to amend and renumber Section 93402 of, and to amend Sections 94304, 94305, 94311, 94312, 94321, 94330, 94331, 94332, 94333, 94335, 94336, 94337 and 94338 of the Education Code, relating to private educational institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 93402 of the Education Code is amended and renumbered to read:

94302. As used in this chapter, unless the context requires otherwise:

(a) "Agent" means any person who, at a place away from the principal school premises or site of instruction, whose primary task is to serve as a paid recruiter, while owning an interest in, employed by, or representing for remuneration or other consideration a private postsecondary educational institution located within or without this state, offers or attempts to secure enrollment of any person within this state or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances are exempted from this definition.

(b) "Agent's permit" means a nontransferable written document issued to an agent pursuant to the provisions of this chapter by the Superintendent of Public Instruction.

(c) "Approval to operate" means that the institution so approved has met recognized and accepted standards as determined by the Superintendent of Public Instruction in carrying out the provisions of this chapter to operate a postsecondary educational institution in this state.

(d) "Authorization to operate" means that the institution so authorized has been granted permission by the Superintendent of

Public Instruction to operate as a postsecondary educational institution.

(e) "Council" means the Council for Private Postsecondary Educational Institutions established pursuant to Section 94304.

(f) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(g) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree.

(h) "Education" or "education services" includes, but is not limited to, any class, course, or program of training, instruction, or study.

(i) "Superintendent" refers to the Superintendent of Public Instruction.

(j) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(k) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational degrees or diplomas are offered or granted.

(*l*) "Postsecondary educational institution" or "institution" includes, but is not limited to, an academic, vocational, technical, business, professional, home study school, college, or university, or other organization (comprised of a person, firm, association, partnership, or corporation) which offers educational degrees or diplomas, or offers instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance. Auxiliary organizations of the California State University and Colleges are not included within this division and are not governed by this article.

(m) "Vocational objective" means an objective which is ordinarily attained upon completion of a course which qualifies the person or leads to employment in a recognized occupation listed in the latest "Dictionary of Occupational Titles," issued by the United States Department of Labor, or declared by that department to be eligible for such listing, or leading to an employable objective determined by the council.

(n) "Professional objective" means an objective which ordinarily is attained upon the completion of a curriculum or program of studies leading to a recognized profession or semiprofession.

(o) "Educational objective" means an objective which ordinarily is attained upon the completion of a program consisting of any

curriculum, or any combination of unit courses or subjects offered by an educational institution which normally leads to earning a college degree.

(p) "Technological objective" means one which is ordinarily attained upon completion of a curriculum or program of studies which emphasizes the application of principles to the solution of practical problems rather than the theoretical development of those principles.

(q) "Accredited" means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the federal Department of Health, Education, and Welfare, the United States Office of Education or the Committee of Bar Examiners for the State of California. It shall not include those institutions which have applied for accreditation and are candidates for accreditation or have provisional accreditation.

SEC. 2. Section 94304 of the Education Code is amended to read:

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the superintendent, or his designee, and 14 additional members who shall be appointed by the superintendent, subject to the concurrence of the State Board of Education, as follows:

(1) Seven members shall be administrative heads of institutions operating under the authority of this chapter. Four such members shall be selected from institutions operating under subdivision (c) or (d) of Section 94311; one member shall be selected from an institution operating under subdivision (a) or (b) of Section 94310; and one member shall be selected from an institution operating under subdivision (c) of Section 94310. If an individual ceases to be an administrative head of an institution operating under the authority of this chapter, then the council position becomes vacant.

(2) Seven shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

(i) The Director of the Department of Consumer Affairs, or his or her designee.

(ii) The Director of the Department of Employment Development, or his or her designee.

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the

structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(b) The first members shall be appointed on or before January 15, 1973, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976. The terms of office of the two members added to the council pursuant to Chapter 1202 of the Statutes of 1977 shall expire on January 15, 1982.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the director, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before such approval or permit may be issued, and to continue such approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and complaints.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 2.5. Section 94304 of the Education Code, as amended by Section 2 of this act, is amended to read:

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the superintendent, or his designee, and 14 additional members who shall be appointed by the superintendent, subject to the concurrence of the State Board of Education, as follows:

(1) Seven members shall be administrative heads of institutions operating under the authority of this chapter. Four such members shall be selected from institutions operating under subdivision (c) or (d) of Section 94311; one member shall be selected from an institution operating under subdivision (a) or (b) of Section 94310; and one member shall be selected from an institution operating under subdivision (c) of Section 94310. If an individual ceases to be an administrative head of an institution operating under the authority of this chapter, then the council position becomes vacant.

(2) Seven shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

(i) The Director of the Department of Consumer Affairs, or his or her designee.

(ii) The Director of the Department of Employment Development, or his or her designee.

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(b) The first members shall be appointed on or before January 15, 1973, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976. The terms of office of the two members added to the council pursuant to Chapter 1202 of the Statutes of 1977 shall expire on January 15, 1982.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business

approved by the director, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before such approval or permit may be issued, and to continue such approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Informational Coordinating Committee.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 3. Section 94305 of the Education Code is amended to read:

94305. It is the intent of the Legislature that the superintendent meet regularly with the council, and that the superintendent work cooperatively with the council in providing leadership and direction in the continuing development of private postsecondary education.

The superintendent shall:

(a) Establish policy for the administration of this chapter in cooperation with the council.

(b) Adopt regulations in cooperation with the council not

inconsistent with this chapter governing the exercise of authority comprised by this article which shall be adopted in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Prepare annually a proposed budget for the support of activities of the Department of Education pursuant to this article. The proposed budget shall be presented to the council for its review and recommendations.

(d) Consult with the council prior to instituting any action to deny, suspend or withdraw approval or authorization of courses or schools pursuant to this article.

(e) Meet with the council at least twice per year. Take into consideration the advice of the council on all matters where the council is authorized to communicate advice to the director.

(f) Impanel special committees of technically qualified persons to assist him and the council in the development of standards for courses and the evaluation of any course or school applying for approval or authorization pursuant to subdivision (b) of Section 94310, Section 94312, and Section 94330. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the superintendent in regard to action to be taken in any particular situation. Members of these special committees shall not be connected in any way with a school which is the subject of inspection or investigation. The members of the special committees shall serve at no expense to the state.

(g) Publish, annually, for public distribution a directory of all institutions approved or authorized to operate in this state under provisions of this chapter. The directory shall contain as a minimum, the names and addresses of such institutions together with a notation of the statute section or sections under which the institution has been authorized or approved.

(h) Negotiate and enter into interstate reciprocity agreements with similar agencies in other states if, in the judgment of the superintendent, such agreements are, or will be, helpful in effectuating the purposes of this chapter; except that nothing contained in any such reciprocity agreement shall be construed as limiting the superintendent's powers, duties, and responsibilities with respect to investigating or acting upon any application for issuance of or renewal of any agent's permit or with respect to the enforcement of any provision of this chapter or any of the rules or regulations promulgated under this chapter. Such agreements shall not include institutions authorized to operate under subdivision (b) of Section 94311 nor be in conflict with agreements arranged by the state licensing boards authorized to negotiate such agreements through provisions of the Business and Professions Code.

(i) Receive, investigate, as he or she may deem necessary, and act upon applications for authorization or approval to operate educational institutions and applications for agent's permits.

(j) It is the intent of the Legislature that the superintendent

develop, with the cooperation of the council, a program or procedure requiring institutions subject to the provisions of this section to provide evidence assuring the due and faithful performance of agreements or contracts with students and the refund of unearned tuition in the event the school ceases to exist or provide instruction.

(k) Request the Attorney General to bring actions pursuant to paragraph (2) of subdivision (a) of Section 94339 which the superintendent deems are necessary to enforce the provisions of this chapter.

SEC. 4. Section 94311 of the Education Code is amended to read:

94311. No postsecondary educational institution may offer courses of education leading to educational, professional, technological, or vocational objectives unless such institution has been approved or authorized by the superintendent as meeting at least one of the following requirements:

(a) A hospital licensed under the provisions of Article 1 (commencing with Section 1250) of Chapter 2, Division 2 of the Health and Safety Code and issues diplomas only in connection with the operation of a hospital.

(b) An institution which is accredited, approved, or licensed by a state board or agency as a school and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it; provided, that this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board or agency. Authorization to operate pursuant to this subdivision shall only be denied if the institution does not possess a valid accreditation, approval, or licensure by a California state agency. Institutions seeking approval or authorization pursuant to this subdivision shall be exempt from providing the application materials specified in subdivision (a) of Section 94330, and from the requirements of subdivisions (e) and (g) of Section 94330.

(c) An institution which at the time of the issuance of a diploma, has accreditation of the institution, program or specific course of study upon which the diploma is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education, and the administrative head of the institution has filed with the superintendent an annual affidavit verifying that the institution, program, or each course of study for which a diploma is issued is so accredited.

(d) An institution which has been approved by the superintendent as meeting the following minimum criteria:

(1) That the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains written records of the student's previous education and training with recognition where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students upon enrollment.

(6) The institution maintains adequate records to show attendance, progress, and grades.

(7) The institution complies with all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes. The superintendent may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrator, director, owner, and instructors are of good reputation and character.

(10) Application for such approval shall be made in writing on proper application forms. Pending final approval, the superintendent may issue a provisional approval upon submission of the complete application.

Within 30 days following receipt of application, and prior to the issuance of either provisional or final approval, a representative of the superintendent shall personally inspect the school and verify the application. If the visitation does not occur within 30 days following receipt of the application, the institution will automatically receive a provisional approval. Within 30 days following visitation, either final approval, provisional approval, or denial of approval must be given to each application. If the superintendent does not act within 30 days following visitation, the application from the institution will automatically receive approval. If all information is in order, the superintendent may authorize provisional approval. A provisional approval shall not exceed a period of one year, subject to prior termination or conversion to annual approval. A provisional approval may not be extended.

SEC. 5. Section 94312 of the Education Code is amended to read:

94312. All institutions authorized, or approved, under this chapter shall be maintained and operated, or in the case of a new institution, must demonstrate that it shall be maintained and operated, in compliance with the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process

within this state.

(d) That the institution has and maintains a fair and equitable policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall be in compliance with the minimum standard of refunds as adopted by the superintendent. The superintendent shall take into consideration the length and character of the educational program in determining standards for refunds.

(e) That any written contract or agreement signed by a prospective student away from the institution premises will not become operative until the student makes an initial visit to the institution. The provision applies only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus. The student is obligated to visit the campus at least six days prior to the start of classes. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus tour were provided. Following the visitation to the campus, the student will have a three-day "cooling off" period to void the contract with no money to be retained by the school as provided in subdivision (d) of this section. If the student does not visit the campus after signing the contract, the "cooling off" period will automatically begin six days prior to the start of classes. The student may waive the right to visit the campus at any time after signing the contract. This provision does not apply to correspondence schools or other mail study institutions. The superintendent shall take into consideration the character of the educational program in determining if other types of institutions should also be excluded from this provision.

(f) That any written contract or agreement for a course of study with an institution shall include on the first page of such agreement or contract, in 12-point boldface print or larger, the following statement:

> "Any questions or problems concerning this institution which have not been satisfactorily answered or resolved by the institution should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 95814."

In addition, such written contracts or agreements shall specify, in underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters.

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution makes available to students and other interested persons a catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, the total cost of tuition over the entire period, and (for vocational training programs for which specific placement claims are made) placement data, as well as such other material facts concerning the institution and the program or course of instruction, as are reasonably likely to affect the decision of the student to enroll therein, as specified by the superintendent and defined in the rules and regulations; and that such information is made available to prospective students prior to enrollment.

(i) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that said course or courses of instruction or study have been satisfactorily completed by the student.

(j) That adequate records are maintained by the institution to show attendance, progress, or grades, and that satisfactory standards are enforced relating to attendance, progress, and performance.

(k) That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the superintendent or the Attorney General of California showing the following:

(1) The names and addresses, both local and home, including city and street, of each of its students;

(2) The courses of study offered by the institution;

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each;

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(*l*) Accreditation by a national or applicable regional accrediting agency recognized by the United States Office of Education or accreditation, approval, or licensure by a California state agency shall be accepted by the superintendent as evidence of compliance with the minimum standards established by the accrediting or licensing agency, and therefore as evidence of compliance with the minimum standards specified in the provisions of this section. If there is substantial evidence of violation of the standards established by the responsible agency, however, the superintendent may require such further evidence and make such further investigation as may be necessary.

SEC. 6. Section 94321 of the Education Code is amended to read:

94321. No institution, or representative of such institution, shall:

(a) Make, or cause to be made, any statement, or representation,

oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate, or misleading.

(b) Promise or guarantee employment.

(c) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(d) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(e) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(f) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school or institution.

Nothing contained in this section shall prohibit a private school and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if they meet all of the conditions established by the superintendent for such advertising.

Any institution willfully violating any provisions of this section shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred, and it may be one of the grounds for losing the approval or authorization to operate in this state. In addition, in the event of such violation, the institution shall refund to the student any tuition or fees that have been collected from the student. The student shall be awarded, in addition to the foregoing, any damages sustained, and may be awarded treble damages, in the discretion of the court.

The judgment rendered in any action maintained for the recovery of fees or damages sustained in accordance with the terms of this section or the judgment rendered in any action defended by a student, shall, if the student is the prevailing party, include court costs, including a reasonable attorney's fee fixed by the court.

The provisions of this section shall supplement and not displace the authority granted the Division of Labor Law Enforcement under Section 1700.4 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under the Labor Code.

SEC. 7. Section 94330 of the Education Code is amended to read:

94330. (a) Each institution desiring to operate in this state shall make application to the superintendent, upon forms to be provided by the superintendent. The application shall include, as a minimum,

at least the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria promulgated by the superintendent. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice or demand may be served.

(b) Each application shall be signed and certified to under oath by the principal owners of the school (those who own at least 10 percent of the stock).

(c) Following review of such application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and such investigation of the applicant as the superintendent may deem necessary or appropriate, the superintendent shall either grant or deny approval or authorization to operate to the applicant.

The provision of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

(d) The term for which approval or authorization is given shall not extend for more than three years, and may be issued for a lesser period of time.

(e) The approval or authorization to operate shall be issued to the owner, or governing body, of the applicant institution, and shall be nontransferable. In the event of a contemplated shift in control, or a change in ownership of the institution, a new owner, or governing body, must at least 20 days prior to the shift in control or change in ownership, apply for a new approval or authorization to operate, and in the event of failure to do so, the institution's approval or authorization to operate shall terminate. Application for a new approval or authorization to operate by reason of a shift in control or a change in ownership of the institution shall be deemed an application for renewal of the institution's approval or authorization to operate. The shift in control, or change in ownership of the institution may not be made until the application is approved. "Ownership," for purposes of this section, shall be deemed to mean ownership of a controlling interest in the institution, or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling such institution.

(f) At least 60 days prior to the expiration of an approval or authorization to operate, the institution shall complete and file with the superintendent an application form for renewal of its approval

or authorization to operate. Said renewal application shall be reviewed and acted upon as provided hereinabove.

(g) An institution not yet in operation when its application for approval or authorization to operate is filed may not begin operation and enroll students until receipt of approval or authorization. An institution in operation, when its application for authorization to operate is filed, may continue operation until its application is acted upon by the superintendent.

(h) Institutions accredited by an agency recognized by the United States Office of Education are not required to file the information described in part (3) and (4) of subdivision (a) of this section.

(i) Catalogs submitted by accredited institutions shall be deemed to meet the requirements of paragraph (1) of subdivision (a) of this section, unless the superintendent finds that the catalog does not meet the standards and criteria of the institution's accrediting agency. In such case, the superintendent may require modification of the catalog to bring it into compliance with the standards and criteria of the institution's accrediting agency.

SEC. 8. Section 94331 of the Education Code is amended to read:

94331. The superintendent shall charge commencing with the current fiscal year of the effective date of the act that added this chapter, the fees listed herein for the approval of private institutions operating under this chapter. For ensuing fiscal years, the superintendent may annually increase or decrease such fees by an amount which reflects an increase or decrease in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue degrees pursuant to subdivision (b) of Section 94310:

(1) Five hundred dollars ($500) for an original application.

(2) One hundred fifty dollars ($150) annually during the duration of the approval period renewal of such application.

(3) One hundred dollars ($100) for any of the following: approval to grant additional degrees, for change of location, or auxiliary facilities in a new location.

(4) One hundred fifty dollars ($150) for change of ownership.

(b) For filing original affidavits as required to issue degrees pursuant to subdivision (c) of Section 94310:

(1) Three hundred dollars ($300) for initial applications.

(2) One hundred fifty dollars ($150) annually during the duration of the authorization period for renewal of such application.

(3) One hundred fifty dollars ($150) for change of ownership.

(c) For authorization to issue diplomas or offer courses of study

pursuant to subdivision (c) of Section 94311, the original application shall be accompanied by a three hundred dollar ($300) fee. Applications filed annually thereafter shall each be accompanied by one hundred fifty dollars ($150).

(d) For approval to issue diplomas or offer courses of study pursuant to subdivision (d) of Section 94311:

(1) Three hundred dollars ($300) for an original application.

(2) One hundred fifty dollars ($150) for a renewal of an annual approval.

(3) One hundred dollars ($100) for approval of any of the following: change of location, major change or revisions in curriculum or course, auxiliary facilities in a new location, or additional courses of study.

(4) One hundred fifty dollars ($150) for change of ownership.

(5) Eight dollars ($8) for each evaluation and approval of directors, administrators, and instructors subsequent to the original application.

(e) For approval of an applicant to solicit or sell courses of study pursuant to Section 94333, the original application shall be accompanied by a twenty dollar ($20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars ($15). Application for additional sales permits shall be accompanied by a fifteen dollar ($15) fee.

SEC. 9. Section 94332 of the Education Code is amended to read:

94332. (1) Any person claiming damage or loss as a result of any act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this chapter or of the rules and regulations promulgated hereunder, may file with the superintendent a verified complaint against such institution or against its agent, or both. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the superintendent.

(2) The superintendent shall investigate any such complaint and may, at his or her discretion, attempt to effectuate a settlement by persuasion and conciliation. The superintendent may consider a complaint after 10 days' written notice by registered mail, return receipt requested, to such institution or to such agent, or both, as appropriate.

(3) If, upon all the evidence at a hearing, the superintendent shall find that an institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates the provisions of this chapter or the rules and regulations promulgated hereunder, the superintendent shall report such evidence to the Attorney General. The superintendent may also, as appropriate, based on his or her own investigation or the evidence adduced at such hearing, or both, commence an action to revoke an institution's approval or authorization to operate or an agent's permit.

SEC. 10. Section 94333 of the Education Code is amended to read:

94333. Any agent, as defined by subdivision (a) of Section 94302,

must hold a valid permit issued by the superintendent. Administrators or faculty, or both, who make informational public appearances, but whose primary task is not to serve as a paid recruiter, are exempted from this section.

The application for such a permit shall be furnished by the superintendent and shall include the following:

(1) A statement signed by the applicant that he or she has read the provisions of this chapter and the rules and regulations promulgated pursuant thereto.

(2) A surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. Such bond shall provide for liability in the penal sum of one thousand dollars ($1,000) for each agent to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent.

(3) A fee as required by Section 94331.

(b) An agent representing more than one institution must obtain a separate agent's permit for each institution represented; provided, that when an agent represents institutions having a common ownership, only one agent's permit shall be required with respect to said institutions. In the event any institution which the applicant intends to represent does not have approval or authorization to operate in this state, said application shall be accompanied by the information required of institutions making application for such approval or authorization.

(c) No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the superintendent for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

(f) A temporary permit shall be issued when a complete application is filed. The temporary permit will automatically expire when the applicant is notified of the superintendent's decision to issue or deny a regular permit. Notification is complete when the applicant learns of the superintendent's decision or three days after

notice of the decision is mailed to the applicant's address stated in the application, whichever occurs first. The superintendent may deny or terminate any temporary permit at any time upon receipt of any information for which a regular permit might be denied. Such termination is effective when the applicant is notified as stated above.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever, that the superintendent has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent, by any means whatever, that the issuance of the permit constitutes an assurance by the superintendent that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

SEC. 11. Section 94335 of the Education Code is amended to read:

94335. (a) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless at the time of execution of such note, other instrument of indebtedness, or contract, said institution has a valid approval or authorization pursuant to the provisions of this chapter.

(b) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable in the courts of this state by any institution within or outside this state governed by the provisions of this chapter unless such agent, who enrolled persons to whom educational services were to be rendered or to whom degrees or diplomas were to be granted pursuant to the provisions of this chapter, held a valid agent's permit at the time of execution of the note, other instrument or indebtedness, or contract.

(c) Any school or institution governed by the provisions of this chapter extending credit or lending money to any person for tuition, fees, or any charges whatever for educational services to be rendered

or furnished shall cause any note, instrument, or other evidence of indebtedness taken in connection with such loan or extension of such credit to be conspicuously marked on the face thereof with the following notice:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

In the event such school or institution fails to do so, it shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or holder of such evidence of indebtedness on account of the absence of such notification.

(d) Notwithstanding the presence or absence of such notification and notwithstanding any agreement wherein the student waives the right to assert any claim or defense, the school or institution making such loan or extending such credit and the transferee, assignee, or holder of such evidence of indebtedness, shall be subject to all defenses and claims which could be asserted against the school or institution which was to render or furnish such educational services by any party to such evidence of indebtedness or by the person to whom such educational services were to be rendered or furnished up to the amount remaining to be paid thereon.

SEC. 12. Section 94336 of the Education Code is amended to read:

94336. Any person, firm, association, partnership, or corporation willfully violating any provisions of subdivisions (d), (e), (f), (g), (h), (i), and (j) of Section 94320 is guilty of a felony and is punishable by imprisonment in the state prison not exceeding five years, or by a fine of not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person, firm, association, partnership, or corporation which willfully violates any other provision of this chapter, is punishable, for a first offense, by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding five hundred dollars ($500), or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by a fine not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

SEC. 13. Section 94337 of the Education Code is amended to read:

94337. Any institution approved or authorized to operate prior to the effective date of the act that added this chapter shall retain such authorization until January 1, 1979, without authorization or approval of the superintendent unless:

(a) Such authorization or approval is revoked by the superintendent or suspended by operation of law pursuant to the provisions of this section.

(b) Such authorization or approval expires and is subject to renewal.

(c) The institution ceases to exist or provide instruction.

After January 1, 1979, all institutions must either be authorized or approved by the superintendent in conformity with this chapter.

SEC. 14. Section 94338 of the Education Code is amended to read:

94338. Any institution approved or authorized by the superintendent pursuant to the provisions of this chapter may contract with any school district, county superintendent, community college district, or the governing body of an agency maintaining a regional occupational center or program, subject to Section 8092.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill No. 2020 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 94304 of the Education Code, and this bill is chaptered after Assembly Bill No. 2020, that Section 94304 of the Education Code, as amended by Section 2 of this act shall remain operative only until January 1, 1979, and that on January 1, 1979, Section 94304 of the Education Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 94304 proposed by Assembly Bill No. 2020. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 2020 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 94304, and this bill is chaptered after Assembly Bill No. 2020, in which case Section 2.5 of this act shall become operative on January 1, 1979.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The Department of Education is responsible for developing and implementing rules and regulations with regard to the Private Postsecondary Education Act of 1977. This act is necessary to provide clarifying technical changes and redefine certain terms used in connection with such procedures. Therefore, it is necessary that this act take effect immediately, in order to provide for the promulgation of rules and regulations, so that those entities coming under the provisions of the Private Postsecondary Education Act of 1977 can proceed with the implementation of such provisions in an effective manner.

CHAPTER 1161

An act to amend Sections 111, 116, 117, 130, 134, 317, 326, 500, 550, 551, 553, 554, 556, 558, 651.3, 654.1, 655.5, 656, 675, 920.5, 1603, 1610, 1621.4, 1628, 1628.5, 1629, 1640, 1679, 1680, 1718, 1718.3, 1765, 2004, 2116.5, 2135.5, 2137.1, 2137.2, 2145.5, 2145.6, 2147, 2147.5, 2147.6, 2150.3, 2150.7, 2151.9, 2152, 2153, 2153.1, 2153.2, 2155, 2157.5, 2158.2, 2158.6, 2165.5, 2166, 2167, 2168, 2168.5, 2171, 2173, 2174, 2176, 2176.5, 2178, 2178.5, 2179, 2179.5, 2180.5, 2181.5, 2182, 2190.5, 2191, 2191.6, 2192, 2192.3, 2192.8, 2193, 2193.5, 2193.6, 2193.71, 2193.72, 2193.75, 2194, 2194.5, 2210.5, 2211, 2212, 2214, 2215, 2216, 2280.5, 2282, 2283, 2284, 2285, 2294, 2309, 2310, 2310.1, 2312, 2313, 2314, 2315, 2316, 2316.5, 2317, 2319, 2320, 2321, 2322, 2323, 2324, 2327.5, 2350.5, 2351, 2361, 2376.5, 2383, 2451, 2452.1, 2455.6, 2525.5, 2525.20, 2530.5, 2530.6, 2531, 2531.2, 2532.1, 2532.2, 2533, 2533.1, 2535.2, 2535.3, 2536, 2537, 2541.3, 2541.6, 2552, 2553, 2553.1, 2554, 2555, 2555.1, 2558, 2559, 2632, 2635, 2636.5, 2637, 2655.3, 2655.5, 2660, 2661, 2672, 2725, 2733, 2736, 2736.5, 2746.3, 2746.4, 2746.6, 2761, 2762, 2765, 2815, 2815.5, 2843, 2866, 2871, 2878, 2878.6, 2881, 2890, 2892.4, 2892.5, 2895.7, 2902, 2912, 2913, 2914, 2920, 2960, 2963, 2971, 2980, 2981, 2984, 2995, 3011, 3013, 3021, 3044, 3054, 3057.5, 3094, 3105, 3107, 3147, 3147.5, 3147.6, 3148, 3321, 3353, 3401, 3403, 3454, 3504, 3516.5, 3902, 3906, 3914, 3916, 3918, 4002, 4003, 4007, 4033, 4047.7, 4051, 4052, 4058, 4089, 4098, 4099, 4176, 4307, 4313, 4354, 4358, 4410, 4416, 4511, 4521, 4523, 4544, 4545, 4545.3, 4548, 4801, 4802, 4828, 4830.5, 4832, 4837, 4841.5, 4842, 4843.5, 4844, 4882, 4883, 4900, 4901, 4901.1, 4902, 5000, 5070.7, 5081, 5100, 5514, 5515, 5535, 5536.1, 5541, 5552, 5554, 5577, 5600, 5602, 5621, 5624, 5652, 5653, 5666, 5668, 5675, 5676, 5680.1, 5680.2, 6501, 6502, 6511.5, 6511.6, 6512, 6546.5, 6576, 6625, 6701, 6702, 6702.1, 6702.2, 6704, 6712, 6760, 6775, 6779, 6787, 6796.3, 6799, 6854, 6864, 6865.5, 6866, 6871, 6881, 6885, 6886, 6886.1, 6894.13, 6906, 6911, 6913, 6922, 6923, 6925, 6926, 6930, 6956, 7068.2, 7069, 7071.3, 7073, 7123, 7137, 7140, 7153.1, 7202, 7211.9, 7303, 7324, 7332, 7332.5, 7332.6, 7333, 7342, 7343, 7346, 7351, 7381, 7431, 7437, 7437.3, 7514, 7514.1, 7521, 7522, 7526, 7528, 7551, 7555, 7555.6, 7603, 7619, 7620, 7625, 7626, 7631, 7634, 7642, 7643, 7662, 7668, 7691, 7708, 7725.2, 7814, 7823, 7841, 7841.1, 7860, 7863, 7884, 7887, 8020, 8024.2, 8025, 8026, 8522, 8555, 8564, 8568, 8647, 8649, 8655, 8657, 8675, 8780, 8783, 8802, 8803, 9003, 9005, 9028, 9036, 9042, 9531, 9540, 9540.2, 9540.3, 9544.1, 9551.5, 9560, 9561, 9564, 9580, 9581, 9625, 9626.5, 9700, 9701, 9702.1, 9702.5, 9717, 9727, 9731, 9801, 9802, 9810, 9817, 9819, 9831, 9832.1, 9840, 9841, 9853, 9870, 9871, 9872, 9874, 9882.8, 9886.3, 9889.2, 9889.3, 9890.2, 9890.4, 9890.51, 9890.52, 9890.53, 9890.54, 9890.57, 9890.61, 9890.90, 9890.105, 9890.113, 9890.120, 9890.121, 9891.25, 9891.42, 9902, 9905, 9929, 9942, 9943, 9944, 9954, 9965.2, 9965.6, 9993, 17804, 17822, 17841, 17862, 17867, 18621, 18636, 19035.3, 19120, 19170.5, 19173.5, 19215, 19215.1, 19215.3, 19215.4, 19215.5, 19215.6, and 19215.7 of, to amend the heading of Chapter 20 (commencing with Section 9800) of Division 3 of, to amend and renumber Section 128, as amended by Chapter 863 of the Statutes of 1973, Sections 2124.3, 2145.1, 2145.2, 2949, 2950,

and 8001.5 of, to add Section 5536.2 to, and to repeal Sections 2120, 2145.3, 2170, 2175, 2192.7, 2195, 2374, 2375, 2376, 2463, 2532.3, 2553.3, 2553.5, 2717, 2830, 2856, 2906, 2927, 2934, 3028, 3355, 4040, 4098.1, 4506, 4810, 5077, 5685, 6513, 6582, 6906.2, 7065.1, 7345, 7698, 7812, 7813, 7843, 7843.1, 8001, 9537, 9702, 9890.62, 9916, and 9965.7 of, the Business and Professions Code, relating to business and professions.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 111 of the Business and Professions Code is amended to read:

111. Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but he shall have the same qualifications as one and shall be subject to the same rules.

SEC. 2. Section 116 of the Business and Professions Code is amended to read:

116. Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480, may without a hearing deny an application upon such a ground, if within one year previously, and after proceedings conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, such agency has denied an application from the same applicant upon the same ground.

SEC. 3. Section 117 of the Business and Professions Code is amended to read:

117. Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

SEC. 4. Section 128 of the Business and Professions Code, as amended by Chapter 863 of the Statutes of 1973, is amended and

renumbered to read:

128.5. (a) Notwithstanding any other provision of law, if at the end of the 1971–1972 fiscal year, or any fiscal year thereafter, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount which equals or is more than the agency's operating budget for the next two fiscal years, such agency shall reduce license or other fees, whether such license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount which will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of the 1973–1974 fiscal year, or any fiscal year thereafter, the California State Board of Architectural Examiners, the Board of Behavioral Science Examiners, the Board of Examiners in Veterinary Medicine, the Certified Shorthand Reporters Board, the Board of Medical Quality Assurance of the State of California, the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, the Bureau of Collection and Investigative Services, or the State Board of Fabric Care has unencumbered funds in an amount which equals or is more than the agency's operating budget for the next two fiscal years, such agency shall reduce license or other fees, whether such license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount which will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

SEC. 5. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other provision of law, as the term of office of any member of an agency designated in subdivision (b) of this section expires on or after the effective date of this section, the first appointment to such office thereafter shall be for a term expiring on June 1st of the third year following the year in which such previous term expired. Thereafter, appointment to such office shall be for a term of four years expiring on June 1st.

(b) Subdivision (a) of this section shall apply to the following boards or committees:

(1) Board of Medical Quality Assurance of the State of California

(2) Podiatry Examining Committee

(3) Physical Therapy Examining Committee

(4) Board of Registered Nursing

(5) Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California

(6) State Board of Optometry

(7) California State Board of Pharmacy

(8) Board of Examiners in Veterinary Medicine

(9) California State Board of Architectural Examiners

(10) California State Board of Landscape Architects
(11) State Board of Barber Examiners
(12) State Board of Registration for Professional Engineers
(13) Contractors' State License Board
(14) State Board of Cosmetology
(15) State Board of Guide Dogs for the Blind
(16) State Board of Funeral Directors and Embalmers
(17) Board of Behavioral Science Examiners
(18) Structural Pest Control Board
(19) Cemetery Board
(20) Bureau of Electronic and Appliance Repair Advisory Board
(21) Certified Shorthand Reporters Board
(22) State Board of Registration for Geologists and Geophysicists
(23) State Athletic Commission
(24) California Advisory Board to the Bureau of Employment Agencies
(25) Board of Osteopathic Examiners of the State of California

SEC. 6. Section 134 of the Business and Professions Code is amended to read:

134. When the term of any license issued by any agency in the department exceeds one year, initial license fees for licenses which are issued during a current license term shall be prorated on a yearly basis.

SEC. 7. Section 317 of the Business and Professions Code is amended to read:

317. (a) The Governor shall, on or before July 15, 1971, make the required appointments to the council. Thereafter, each appointment shall be for a four-year term.

(b) No member shall serve more than two consecutive terms.

(c) The members of the council shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council.

SEC. 8. Section 326 of the Business and Professions Code is amended to read:

326. (a) Upon receipt of any complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) The director shall also transmit any valid complaint to the local, state or federal agency whose authority provides the most effective means to secure such relief.

The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law or rule or order of any regulatory agency of the state, or if a pattern of

complaints from consumers develops, the director shall transmit any complaint he considers to be valid to any appropriate law enforcement or regulatory agency any evidence or information he may have concerning such probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to such probable violations or pattern of complaints.

SEC. 9. Section 500 of the Business and Professions Code is amended to read:

500. Whenever the register or book of registration of the Board of Medical Quality Assurance, the Board of Dental Examiners, or the Board of Pharmacy is destroyed by fire or other public calamity, the board, whose duty it is to keep the register or book, may reproduce it so that there may be shown as nearly as possible the record existing in the original at the time of destruction.

SEC. 10. Section 550 of the Business and Professions Code is amended to read:

550. As used in this article, "ophthalmia neonatorum," independent of the nature of the infection, means any condition of the eye, or eyes, of any infant in which there is any inflammation, swelling or redness in either one or both of the eyes of any infant, either apart from or together with any unnatural discharge from the eye, or eyes, of any infant, at any time within two weeks after its birth.

As used in this article, "department" refers to the State Department of Health Services.

SEC. 11. Section 551 of the Business and Professions Code is amended to read:

551. It is the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative, and any person or persons attendant upon, or assisting in any way whatsoever, either the mother or child, or both, at childbirth, to treat both eyes of the infant within two hours after birth with a prophylactic efficient treatment, and in all cases where the child develops within two weeks after its birth ophthalmia neonatorum, and such person knows it to exist, to report the case within 24 hours after knowledge, in such form as the department directs, to the local health officer of the county or city within which the mother of any such infant resides.

SEC. 12. Section 553 of the Business and Professions Code is amended to read:

553. All maternity homes, hospitals, and similar institutions wherein childbirths occur shall keep a record of all cases of ophthalmia neonatorum occurring or discovered therein. These records shall be in the form and contain the matters which the department prescribes.

SEC. 13. Section 554 of the Business and Professions Code is

amended to read:

554. The local health officer shall:

(a) Investigate each case filed with him in pursuance of this article, and all other cases coming to his attention.

(b) Report all cases of ophthalmia neonatorum coming to his knowledge, and the result of all investigations that he makes to the department, in such form as the department directs.

(c) Conform to such rules and regulations as the State Department of Health Services promulgates for the purpose of carrying out the provisions of this article.

SEC. 14. Section 556 of the Business and Professions Code is amended to read:

556. The failure of any person mentioned in Section 551 to report, or the failure of any maternity home, hospital, or similar institution, to use the treatment prescribed in Section 551 and to record any and all cases of ophthalmia neonatorum, as directed in Section 553, or the failure or refusal of any person or institution, mentioned in this article, to obey any rule or regulation adopted by the department under this article constitutes a misdemeanor, and upon conviction thereof shall be fined, for the first offense not to exceed fifty dollars ($50); for a second offense, not to exceed one hundred dollars ($100); and for a third offense, and thereafter not to exceed two hundred dollars ($200) for each violation.

SEC. 15. Section 558 of the Business and Professions Code is amended to read:

558. One-half of all fines collected hereunder shall go to the county wherein the prosecution was had, and the remaining one-half thereof shall go into the State Treasury and constitute a special fund to be expended by the department for the purposes of carrying out the provisions of this article.

SEC. 16. Section 651.3 of the Business and Professions Code is amended to read:

651.3. (a) No person, whether or not licensed under this division, shall advertise or cause or permit to be advertised, any representations in any form which in any manner, whether directly or indirectly, refer to the cost, price, charge, or fee to be paid for any commodity or commodities furnished or any service or services performed by any person licensed as a physician and surgeon, optometrist, pharmacist, or registered dispensing optician, when those commodities or services are furnished in connection with the professional practice or business for which he is licensed; provided, however, that the provisions of this section do not apply to the furnishing of information regarding benefits available, and charges therefor, under the coverage of any hospital or medical service or health care service or insurance plan.

(b) This section shall not be construed to do any of the following:

(1) Modify or establish prices or fees or modify or affect in any manner any other provisions of this division.

(2) Prohibit advertising concerning the allowance of credit, time

payments, budget terms, or the allowance of any other method of payment for a commodity or a service where the advertising contains no indication of cost, price, charge, or fee.

(3) Prohibit the advertising of any drug or device which does not require a prescription.

(4) Prohibit the advertisement of a drug which requires a prescription; provided such advertisement is limited to a reference to and includes the retail price, the brand name of the drug, the generic drug type where applicable, quantity, strength, and dosage form although it may also include information about professional services available, the store, hours, and locations; and further provided that all of the following conditions are met:

(i) Advertisements shall include a statement of the professional services available or contain a reproduction of the professional services portion of the pricing poster in accordance with, and as described in, Section 4333.

(ii) Advertisements shall include the dates during which the advertised price will be in effect. Such period shall not be less than 15 consecutive days.

(iii) Advertisements may include other information not related to advertised drugs provided the advertiser spacially separates the prescription drug advertisements from advertisements of nonprescription drugs or other goods or any other material in the advertisement, and providing that any such material does not encourage the use of any prescription drug nor in any other way advertise, inform or relate to prescription drugs.

(iv) The quantities of the prescription drugs advertised are generally equal to the quantities usually prescribed in accordance with good medical practice.

(v) The advertiser shall have in stock sufficient quantities of the advertised prescription drugs to meet any reasonable demands for the advertised product for a period of at least 15 days, taking into consideration the previous demands for the drug, and the seller's anticipated demands therefor.

(c) Notwithstanding provisions of this section, any labor organization, bona fide employee group or bona fide employee association having contracted health care services from a health care service plan under the Knox-Keene Health Care Service Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, may inform its members as to the benefits available and the charges therefor.

(d) Before any new or revised written advertising or solicitation, or any form of evidence of coverage, is adopted by a health care service plan under the Knox-Keene Health Care Service Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, for distribution to members pursuant to subdivision (c), the proposed new or revised advertising or solicitation or evidence of coverage shall be submitted to the Department of Corporations which shall, within 30 days, prohibit its

use if it is determined that the advertising or solicitation or evidence of coverage as proposed is untrue or misleading or deceptive as determined pursuant to the definitions contained in Section 1345 of the Health and Safety Code. The Department of Corporations shall notify the plan or its representatives of such determination.

(e) Any labor organization, bona fide employee group or bona fide employee association, contracting for a health care service plan under this section, shall not derive any profit from such plan.

Nothing contained in this section shall be construed as authorizing a provider of medical assistance, including a prepaid health plan, under the Medi-Cal Act or the Waxman-Duffy Prepaid Health Plan Act to advertise in violation of any of the provisions of such acts and regulations developed thereto.

SEC. 17. Section 654.1 of the Business and Professions Code is amended to read:

654.1. Persons licensed under Chapter 4 (commencing with Section 1600) of this division or licensed under Chapter 5 (commencing with Section 2000) of this division or licensed under any initiative act referred to in this division relating to osteopaths may not refer patients, clients, or customers to any clinical laboratory licensed under Section 1265 in which the licensee has any membership, proprietary interest, or coownership in any form, or has any profit-sharing arrangement, unless the licensee at the time of making such referral discloses in writing such interest to the patient, client, or customer. Such written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed.

This section shall not apply to persons who are members of a medical group which contracts to provide medical care to members of a group practice prepayment plan registered under the Knox-Keene Health Care Service Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

This section shall not apply to any referral to a clinical laboratory which is owned and operated by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or such assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, providing the report indicates clearly the laboratory performing the test.

"Proprietary interest" does not include ownership of a building where space is leased to a clinical laboratory at the prevailing rate under a straight lease arrangement.

SEC. 18. Section 655.5 of the Business and Professions Code is amended to read:

655.5. It is unlawful for any person licensed under this division or under any initiative act referred to in this division or for any clinical

laboratory to charge, bill, or otherwise solicit payment from any patient, client or customer for any clinical laboratory service not actually rendered by such person or clinical laboratory or under his or its direct supervision unless the patient, client or customer is apprised at the first time of such charge, billing or solicitation of the name, address and charges of the clinical laboratory performing the service. The first such written charge, bill or other solicitation of payment shall separately set forth the name, address, and charges of the clinical laboratory concerned and shall clearly show whether or not such charge is included in the total of the account, bill or charge.

This section shall not apply to any person or clinical laboratory who or which contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if such services are to be provided to members of the plan on a prepaid basis and without additional charge or liability on account thereof.

SEC. 19. Section 656 of the Business and Professions Code is amended to read:

656. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this article, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the State Board of Optometry, the Board of Medical Quality Assurance of the State of California, the Board of Osteopathic Examiners, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required in any action commenced by such boards, the Attorney General, or a district attorney.

SEC. 20. Section 675 of the Business and Professions Code is amended to read:

675. Every person, firm, association, partnership, or corporation offering a course of instruction in any type of nursing, including vocational nursing or practical nursing, which course of instruction is not accredited by the Board of Registered Nursing or by the Board of Vocational Nurse and Psychiatric Technician Examiners and completion of which will not qualify a person to take the examinations given by such boards shall notify an applicant for admission thereto that the course of instruction is not accredited by such boards and that completion thereof will not qualify the person to take the examinations given by such boards.

The notice required by this section shall be in writing in at least 12-point boldface type, and in no event less than two points larger than the type in any other portion of the notice or contract, and shall be given to an applicant prior to the signing of any contract by such applicant or, if no contract is signed, prior to the making of any deposit or other payment by such applicant.

If an applicant is required to sign a contract in order to enroll in the course of instruction, the notice required by this section shall be contained in such contract directly above the place for the applicant's signature.

SEC. 21. Section 920.5 of the Business and Professions Code is amended to read:

920.5. The term "board" as used in this chapter means the Board of Medical Quality Assurance of the State of California.

SEC. 22. Section 1603 of the Business and Professions Code is amended to read:

1603. Members of the board shall be appointed by the Governor for a term of four years, and each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

A vacancy occurring during a term shall be filled by appointment for the unexpired term, within 30 days after it occurs.

No person shall serve as a member of the board for more than two terms.

The Governor shall appoint the dentist member provided for at the 1976 portion of the 1975–76 session of the Legislature for a term expiring on January 15, 1979. The Governor shall appoint the public members provided for at the 1975–76 session of the Legislature on or before March 1, 1977. The terms of the three public members provided for at the 1976 portion of the 1975–76 session of the Legislature shall expire on January 15, 1978, January 15, 1980 and January 15, 1981.

SEC. 22.5. Section 1610 of the Business and Professions Code is amended to read:

1610. Seven members of the board shall constitute a quorum for the transaction of business at any meeting.

SEC. 23. Section 1621.4 of the Business and Professions Code is amended to read:

1621.4. (a) The examining committee shall assist the board in the examination of applicants for a dental license or a dental hygiene license at least once a year, at the time and place designated by the board.

(b) As directed by the board, the examining committee may investigate each applicant applying for a license to practice dentistry and a license to practice dental hygiene and recommend to the board whether an applicant shall be admitted to the examination, and whether a license or certificate shall be issued, pursuant to the requirements of this chapter.

(c) As directed by the board, the examining committee, or subcommittees thereof appointed by the board, may receive and investigate complaints and obtain information and evidence relating to any matter involving the conduct of dentists or dental hygienists or any violation or alleged violation of any of the provisions of this chapter by dentists or dental hygienists.

(d) The examining committee shall advise the board regarding the establishment, implementation, and operation of the continuing education requirements authorized by Section 1645 of this chapter.

SEC. 24. Section 1628 of the Business and Professions Code is amended to read:

1628. Any person over 18 years of age is eligible to take an examination before the board upon making application therefor and:

(a) Paying the fee for applicants for examination provided by this chapter;

(b) Furnishing satisfactory evidence of having graduated from a reputable dental college, which shall have been approved by the board; provided, also, that applicants furnishing evidence of having graduated after 1921 shall also present satisfactory evidence of having completed at such dental school or schools the full number of academic years of undergraduate courses required for graduation.

SEC. 25. Section 1628.5 of the Business and Professions Code is amended to read:

1628.5. The board may deny an application to take an examination for licensure as a dentist or an application for registration as a dental corporation if the applicant has done any of the following:

(a) Committed any act or crime constituting grounds for denial of licensure or registration under Section 480.

(b) While unlicensed, committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 26. Section 1629 of the Business and Professions Code is amended to read:

1629. Any member of the board may inquire of any applicant for examination concerning his qualifications or experience and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

SEC. 27. Section 1640 of the Business and Professions Code is amended to read:

1640. Any person meeting all the following eligibility requirements may apply for a special permit examination:

(a) Furnishing satisfactory evidence of having a pending contract with a California dental college approved by the board as a full-time professor, an associate professor, or an assistant professor.

(b) Furnishing satisfactory evidence of having graduated from a dental college approved by the board.

(c) Furnishing satisfactory evidence of having been certified as a diplomate of a specialty board or in lieu thereof establishing his qualifications to take a specialty board examination.

(d) Paying the fee for applicants for examination provided by this chapter.

SEC. 28. Section 1679 of the Business and Professions Code is amended to read:

1679. Any licentiate under this chapter may have his license revoked or suspended or be reprimanded or be placed on probation by the board for conviction of a crime substantially related to the qualifications, functions, and duties of a dentist or dental auxiliary, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

The board shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dentist or dental auxiliary is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 29. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct is defined to be any one of the following:

(a) The employment of persons known as cappers or steerers, to obtain business.

(b) The obtaining of any fee by fraud or misrepresentation.

(c) The willful betrayal of professional secrets.

(d) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(e) The aiding or abetting of any unlicensed person to practice dentistry.

(f) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(g) Habitual intemperance.

(h) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he is licensed to practice, in advertising or in any other manner indicating that he is practicing or will practice dentistry, except such name as is specified in a valid permit issued pursuant to Section 1701.5.

(i) The practicing or accepting or receiving any commission or the rebating in any form or manner on fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(j) The making use of any advertising statements of a character tending to deceive or mislead the public.

(k) The advertising of professional superiority or the performance of professional services in a superior manner.

(*l*) The advertising of definite or fixed prices for professional services.

(m) The use of advertising containing as a part thereof the representation of a tooth, teeth, bridgework or any portion of the human head.

(n) The employing or the making use of solicitors.

(o) The advertising of any free dental work, or free examination.

(p) The advertising to guarantee any dental service, or to perform any dental operation painlessly.

(q) The willful violation of any of the provisions of law regulating the dispensing and administration of dangerous drugs or narcotics, or the willful violation of any of the provisions of this chapter except the payment of fees.

(r) The failure to certify, or the false certification, to the board on or after January 1, 1972, that he or any person employed by the licentiate, who operates dental radiographic equipment, has passed an examination in radiation safety conducted by the board, or the equivalent of such examination as required by Section 1656; or the permitting of any person employed by him to operate dental radiographic equipment who has not passed an examination or the equivalent of such examination in radiation safety as required by Section 1656.

SEC. 30. Section 1718 of the Business and Professions Code is amended to read:

1718. Except as otherwise provided in this chapter, an expired license may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 1715 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 31. Section 1718.3 of the Business and Professions Code is amended to read:

1718.3. A license which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the holder of the license may apply for and obtain a new license if:

(a) No fact, circumstance, or condition exists which would justify

denial of licensure under Section 480,

(b) He pays all of the fees which would be required of him if he were then applying for the license for the first time, and

(c) He takes and passes the examination, if any, which would be required of him if he were then applying for the license for the first time, or otherwise establishes to the satisfaction of the board that with due regard for the public interest, he is qualified to practice the profession or activity in which he again seeks to be licensed.

The board may by regulation provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination under this section.

SEC. 32. Section 1765 of the Business and Professions Code is amended to read:

1765. The license granted by the board to any registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in extended functions, shall be subject to probation, suspension, revocation, or such other disciplinary actions as determined by the board for any of the following causes:

(a) Conviction of illegal use or possession of narcotics.

(b) Habitual intemperance.

(c) Incompetent performance, as determined by the board.

(d) Excessive use of any habit-forming drug.

(e) Conviction of any crime substantially related to the qualifications, functions and duties of the licensee.

(f) Use of fraud in the procurement of any license issued pursuant to this chapter.

(g) Gross negligence, as determined by the board.

(h) Any action or conduct which would have warranted the denial of the license.

(i) Violation of any provision of this article.

SEC. 33. Section 2004 of the Business and Professions Code is amended to read:

2004. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which enforces the provisions of this chapter relating to persons holding or applying for certificates issued by the Board of Osteopathic Examiners under the Osteopathic Act.

However, persons who elect to practice using the term or suffix "M.D." as provided in Section 2396, shall not be subject to the provisions of this section, and the Board of Medical Quality Assurance of the State of California shall enforce the provisions of this chapter relating to such persons who make such election. After making such election, each of such persons so electing shall apply for renewal of his certificate to the Board of Medical Quality Assurance of the State of California, and the Board of Medical Quality Assurance shall issue such renewal certificates in the same manner as other renewal certificates are issued by it.

SEC. 34. Section 2116.5 of the Business and Professions Code is

amended to read:

2116.5. If a person, not a regular employee of the board, is hired to provide expertise to the Division of Medical Quality in the evaluation of conduct of a physician's and surgeon's certificate holder, and said person is named as a defendant in a civil action for defamation directly resulting from opinions rendered, statements made, or testimony given to said division or its representatives, the board shall provide for representation required to defend said defendant in said civil action; provided, however, the board shall not be liable for any judgment rendered against said person. The Attorney General shall be employed by the board to defend any civil action referred to in this section and his services shall be a charge against the board.

SEC. 35. Section 2120 of the Business and Professions Code is repealed.

SEC. 36. Section 2124.3 of the Business and Professions Code is amended and renumbered to read:

2192.1. The Division of Licensing, subject to the State Civil Service Act, may employ investigations to evaluate the curricula of medical schools. Such persons shall meet such reasonable standards of experience and education, to be determined by the Division of Licensing, as will enable them to competently perform such duties.

SEC. 37. Section 2135.5 of the Business and Professions Code is amended to read:

2135.5. All references in this article to the board, the Board of Medical Examiners, or the division shall mean the Division of Licensing.

SEC. 38. Section 2137.1 of the Business and Professions Code is amended to read:

2137.1. Subject to the provisions of the State Civil Service Act, any person who is licensed to practice medicine in any other state, meets the requirements for application as set forth in Section 2190, and who complies with each of the requirements of Section 2147.5 with respect to registration with the Division of Licensing and graduation from a school approved by the division, may be appointed to a medical staff within a state institution and, under supervision of a licensed physician and surgeon, may treat persons under the jurisdiction of any such state institution for a period not exceeding two years; provided, that qualified physicians and surgeons cannot be recruited in the State of California. At the end of such time he must have secured a physician's and surgeon's certificate in order to continue as a member of such medical staff. Until such person has obtained a physician's and surgeon's certificate he shall not engage in the practice of medicine and surgery in this state except to the extent expressly herein permitted. No person appointed pursuant to this section shall be employed in any state institution or institutions for a period in excess of two years from the date such person was first employed and such appointment shall not be extended beyond such two-year period.

SEC. 39. Section 2137.2 of the Business and Professions Code is amended to read:

2137.2. Any person who is licensed to practice medicine in any other state, who meets the requirements for application as set forth in Article 4 (commencing with Section 2165) and Article 5 (commencing with Section 2190), of this chapter, and who complies with each and all of the requirements of Section 2147.5 with respect to registration with the Division of Licensing and graduation from a school approved by the division, may be employed on the resident medical staff within a county general hospital and, under supervision of a licensed physician and surgeon, may treat persons within such county institution for a period not exceeding two years; provided, that an adequate number of qualified resident physicians cannot be recruited from intern staffs in the State of California, and provided, further, that he has not taken and failed the examination required under Section 2193.5. At the end of such time he must have secured a physician's and surgeon's certificate in order to continue as a member of such resident physician staff. Until such person has obtained a physician's and surgeon's certificate he shall not engage in the practice of medicine and surgery in this state except to the extent herein permitted. No person appointed pursuant to this section shall be employed in any county general hospital for a period in excess of two years from the date such person was first employed.

SEC. 40. Section 2145.1 of the Business and Professions Code is amended and renumbered to read:

2160. The performance of acupuncture by an unlicensed person, alone or in conjunction with other forms of traditional Chinese medicine, when carried on in a program affiliated with and under the jurisdiction of an approved medical school for the primary purpose of scientific investigation of acupuncture, shall not be in violation of this chapter, but such procedures shall be carried on only under the supervision of a licensed physician and surgeon.

Any medical school conducting research into acupuncture under the provisions of this section shall report to the Legislature annually on the fifth legislative day of the regular session of the Legislature concerning the results of such research, the suitability of acupuncture as a therapeutic technique, and performance standards for persons who perform acupuncture.

SEC. 41. Section 2145.2 of the Business and Professions Code is amended to read:

2145.2. (a) The Division of Allied Health Professions shall provide grants for the purpose of funding projects to research the therapeutic value of, and scientific basis for, acupuncture, and related techniques. Each such grant shall be authorized after application is made to the division, in a form prescribed by the division, demonstrating that the proposed project is: (1) a legitimate and important scientific investigation of acupuncture; (2) the procedures to be employed are sufficient to achieve the research objectives and (3) the costs to be incurred are reasonable.

(b) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund in the State Treasury to the Division of Allied Health Professions for purposes of funding projects authorized by this section.

SEC. 42. Section 2145.3 of the Business and Professions Code is repealed.

SEC. 43. Section 2145.5 of the Business and Professions Code is amended to read:

2145.5. (a) When clearly outstanding physicians who are leaders in important fields in medicine and surgery and who are graduates of medical schools other than those of the United States are greatly needed to fill important full-time faculty positions in approved California medical schools for the teaching of medical students who are candidates for the degree "doctor of medicine," and if such physician has been offered by the dean of the medical school a full-time faculty appointment, the Division of Licensing may review the credentials of such physician and may decide whether to require such physician to pass an oral or a written examination, and may grant a certificate of registration to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of his duties as approved by the Division of Licensing in connection with the faculty position in the medical school. Such certificate of registration shall be valid for a period of not more than five years and shall be renewable at the discretion of the division and during which period he shall not otherwise hold himself out as a physician and surgeon in this state.

(b) A physician who receives and has held a valid certificate of registration under subdivision (a) for at least two years and who desires an unlimited physician's and surgeon's certificate in this state may, upon application to, and if approved by, the division, be granted an unlimited physician's and surgeon's certificate. An applicant for such unlimited certificate shall take and pass an oral and clinical examination. Notwithstanding any other provision of law, the division shall accept time spent in an appointment pursuant to subdivision (a) as qualifying time to meet the requirements of full licensure.

SEC. 44. Section 2145.6 of the Business and Professions Code is amended to read:

2145.6. (a) Any applicant not immediately entitled to an unlimited physicians and surgeons certificate under any other provision of this chapter who is offered by the dean of an approved California medical school a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of his duties as approved by the Division of Licensing in connection with the faculty position in the medical school.

(b) To qualify for a certificate pursuant to subdivision (a), an applicant shall satisfy each of the following requirements:

(1) He shall furnish documentary evidence satisfactory to the division that he is a United States citizen or, if not a citizen, that he is legally admitted to the United States.

(2) If he is a graduate of a medical school other than in the United States or Canada, he shall furnish documentary evidence satisfactory to the division that he has been licensed to practice medicine and surgery for not less than four years in the United States or in a country or countries whose requirements for licensure are satisfactory to the division, or has been engaged in the practice of medicine in the United States for at least four years in hospitals approved for postgraduate training, or has completed a combination of such licensure and practice.

If he is a graduate of an approved medical school in the United States or Canada, he shall furnish documentary evidence satisfactory to the division that he has completed in such school a resident course of professional instruction equivalent to that required by Sections 2191 and 2192.

(3) He shall take and pass an oral and clinical examination if required by the division.

(4) The chairman of the department in which he is to be appointed shall certify in writing to the division that the applicant will be under his direction and will not be permitted to practice medicine or surgery unless incident to and a necessary part of his duties as approved by the Division of Licensing in connection with the faculty position in the medical school.

(c) A certificate may be valid for a period of up to one year after its issuance. During the period for which a certificate has been issued pursuant to this section, the applicant shall take the written examination required for the issuance of an unlimited physicians and surgeons certificate in this state.

If the applicant does not pass the examination, the certificate issued pursuant to this section shall nevertheless be effective for the period issued and if the effective period of the certificate will lapse before he can repeat the examination, the certificate may be renewed, subject to the discretion of the division, for a period not in excess of one year.

(d) Any graduate of a medical school other than in the United States or Canada who is serving an appointment pursuant to this section and desires full licensure in this state shall meet the requirements of Section 2193. Notwithstanding any other provision of law, the division may accept time spent in an appointment pursuant to this section as qualifying time to meet the requirements under Section 2193.

SEC. 45. Section 2147 of the Business and Professions Code is amended to read:

2147. Nothing in this chapter shall be construed to prevent a student regularly matriculated in any legally chartered school approved by the Division of Licensing, or to prevent a foreign medical student who is enrolled in a California medical school or

clinical training program approved by the division from treating the sick or afflicted whenever and wherever prescribed as a part of his course of study.

SEC. 46. Section 2147.5 of the Business and Professions Code is amended to read:

2147.5. Except to the extent authorized by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may treat the sick or afflicted or receive compensation therefor, or otherwise engage in or offer to engage in the practice of medicine or surgery unless he shall hold a valid, unrevoked and unsuspended physician's and surgeon's certificate issued by the Division of Licensing of this state. A graduate of an approved school, who is registered with the division and who is enrolled in approved postgraduate training, may treat the sick and afflicted whenever and wherever required as a part of such program under the following conditions:

(a) Any graduate of an approved medical school who is registered with the division may, in an approved first-year postgraduate training program, for a period not to exceed one year, treat the sick and afflicted whenever and wherever required as a part of his training program, and may receive compensation for rendering such treatment.

(b) Any graduate of an approved medical school who has completed his first year of postgraduate training and is registered with the division may, in an approved residency, treat the sick and afflicted whenever and wherever required as part of his training program and may receive compensation therefor; provided, that such resident shall qualify for and take the next succeeding written examination for licensure given by the division, or shall qualify for and receive a physician's and surgeon's certificate by one of the other methods specified in this chapter. If he shall fail to pass such an examination or fail to receive a license to practice medicine by one of the other methods specified in this chapter within a year, all privileges under this section shall automatically cease.

SEC. 46.5. Section 2147.6 of the Business and Professions Code is amended to read:

2147.6. (a) Physicians, who are legally admitted to the United States of America, who seek postgraduate study in an approved medical school either as a fellow, instructor, or exchange professor, may, after proper application to and approval by the Division of Licensing and receipt of an appointment from the dean of an approved medical school, be permitted by the division to participate in the professional activities of the department in the approved medical school to which they are appointed under the direction of the chairman of the department. Such permission granted by the division shall be for a period not in excess of five years, and must be renewed annually. Such renewal shall only be granted subject to the discretion of the division.

(b) Physicians, who are legally admitted to the United States of America on a temporary basis, who seek postgraduate study may,

after application to and approval by the division, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in the State of California approved by the Joint Committee on Accreditation and providing the service is satisfactory to the division. Such persons shall at all times be under the direction and supervision of a licensed, board-certified physician who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is to be for a period of one year, but may be renewed for another year upon application to and approval by the division. Such approval may not be renewed more than four times.

The division is authorized to determine a suitable fee, based on the cost of operating this program, which shall be paid by the applicant at the time application is filed.

(c) Except to the extent authorized by this section, no such visiting physician may treat the sick or afflicted or receive compensation therefor or otherwise engage in or offer to engage in the practice of medicine and surgery.

The time spent in an approved medical school pursuant to this section shall not be used to satisfy the requirements contained in Sections 2193 and 2193.5.

Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

SEC. 47. Section 2150.3 of the Business and Professions Code is amended to read:

2150.3. As used in this article, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Advisory Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance. "Division" means the Division of Allied Health Professions.

(c) "Person" means any individual, organization or corporate body except that only individuals can be certified under this article.

(d) An "acupuncturist" is a person who practices acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

SEC. 48. Section 2150.7 of the Business and Professions Code is amended to read:

2150.7. The Governor shall appoint a seven-member Acupuncture Advisory Committee to advise the Division of Allied Health Professions on implementing the provisions of this article.

SEC. 49. Section 2151.9 of the Business and Professions Code is amended to read:

2151.9. The Division of Allied Health Professions of the Board of Medical Quality Assurance shall administer the provisions of this article and may adopt such rules and regulations as may be necessary to effectuate the provisions of this article.

SEC. 50. Section 2152 of the Business and Professions Code is amended to read:

2152. The board shall issue a certificate to practice acupuncture to any person who makes application to the Division of Allied Health Professions and meets the following requirements:

(a) Is 18 years of age or over.

(b) Has not committed acts or crimes constituting grounds for denial of a certificate under Section 480.

(c) Furnishes satisfactory evidence of completion of a course in acupuncture which shall be approved by the division or furnishes satisfactory evidence of two years' experience in performing acupuncture.

(d) Successfully passes an examination administered by the division which tests the applicant's ability, competency, and knowledge of the practice of acupuncture.

SEC. 51. Section 2153 of the Business and Professions Code is amended to read:

2153. In addition, a certificate shall be issued to any applicant who has produced reasonable proof that he has performed acupuncture for at least five years, or for at least three years and has practiced acupuncture in affiliation with a program operating pursuant to Section 2145.1. Whether an applicant has produced reasonable proof shall be determined by the Division of Allied Health Professions. Such applications shall be processed as expeditiously as possible, and shall be given priority over applicants under Section 2152.

An applicant issued a certificate pursuant to this section may be required to comply with the requirements of Section 2152 when such requirements are established by the division. The requirement or nonrequirement of compliance shall be based upon the competency of the applicant, as determined by the division, in accordance with uniform rules, standards, or requirements established by the division.

The furnishing of information by an applicant pursuant to this section or Section 2152 shall not constitute a waiver of the protection of the Fifth Amendment to the United States Constitution. The practice of acupuncture prior to the effective date of this article shall not be grounds to disqualify an applicant for a certificate pursuant to this section or Section 2152.

SEC. 52. Section 2153.1 of the Business and Professions Code is amended to read:

2153.1. The Division of Allied Health Professions shall report to the Legislature no later than one year after the appointment of the committee and on the 30th day of January each year thereafter on

the nature and extent of the standards, tests, and experience requirements adopted pursuant to this article, as well as statistical information relating to the total number of individuals certified under this article to that date and the number certified within the preceding year. Such report shall also include recommendations for legislation if the division considers legislation to be necessary.

SEC. 53. Section 2153.2 of the Business and Professions Code is amended to read:

2153.2. The Division of Allied Health Professions shall have the authority to investigate and to evaluate each and every applicant applying for a certificate to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a certificate, in conformance with the provisions and qualifications required by this article.

SEC. 54. Section 2155 of the Business and Professions Code is amended to read:

2155. Acupuncture may not be performed on a person without a prior diagnosis or referral from a licensed physician and surgeon, a licensed dentist, a licensed podiatrist, or licensed chiropractor. The referral need only be for acupuncture treatment and need not be to a particular certificate holder. The acupuncture performed shall be appropriate to the diagnosis.

At the completion of treatment, the acupuncturist shall report to the diagnosing or referring physician, dentist, podiatrist, or chiropractor, upon forms prescribed by the Division of Allied Health Professions, the nature and effect of the treatment.

SEC. 55. Section 2157.5 of the Business and Professions Code is amended to read:

2157.5. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of an acupuncturist is deemed to be a conviction within the meaning of this article. The Division of Allied Health Professions may order a certificate suspended or revoked, or may decline to issue a certificate when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 56. Section 2158.2 of the Business and Professions Code is amended to read:

2158.2. The amount of the fees prescribed by the provisions of this article is that fixed by the following schedule:

(1) The application fee and renewal fee shall be fixed by the Division of Allied Health Professions in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the division which relate to the functions authorized

by this article.

(2) The delinquency fee shall be ten dollars ($10).

(3) The reexamination fee shall be fixed by the division in an amount which does not exceed seventy-five dollars ($75).

SEC. 57. Section 2158.6 of the Business and Professions Code is amended to read:

2158.6. Except as provided in Section 2158.7, a certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the Division of Allied Health Professions and payment of the renewal fee in effect on the last preceding regular renewal date. If the certificate is not renewed within 30 days after its expiration, the certified individual, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid or, on the date on which the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect through the expiration date provided in Section 2158.4, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 58. Section 2165.5 of the Business and Professions Code is amended to read:

2165.5. All references in this article to the board, the Board of Medical Examiners, or the division shall mean the Division of Licensing.

SEC. 59. Section 2166 of the Business and Professions Code is amended to read:

2166. Each application for a certificate shall be accompanied by the fee required by this chapter and shall be filed with the Division of Licensing.

SEC. 60. Section 2167 of the Business and Professions Code is amended to read:

2167. The application shall be made upon a blank furnished by the Division of Licensing. It shall contain such information concerning the medical instruction and the preliminary education of the applicant as the division may by rule prescribe, in addition to the information required by law.

SEC. 61. Section 2168 of the Business and Professions Code is amended to read:

2168. All applications, except one that is based upon a diplomate certificate issued by the National Board of Medical Examiners of the United States, shall contain or have attached thereto:

(a) A diploma issued by some legally chartered school approved by the Division of Licensing. The requirements of the school shall have been at the time of granting the diploma in no degree less than those required under this chapter or by any preceding medical practice act at the time that the diploma was granted. In lieu of any diploma, the applicant may submit evidence satisfactory to the division of having possessed the same.

(b) An affidavit showing to the satisfaction of the division that the applicant is the person named in each diploma that he submits, that he is the lawful holder, and that it was procured in the regular resident course of instruction and examination without fraud or misrepresentation.

SEC. 62. Section 2168.5 of the Business and Professions Code is amended to read:

2168.5. Every applicant shall prove that a diploma or other evidence of final, successful and entire completion of instruction and training required by a school approved by the Division of Licensing has been issued to him.

SEC. 63. Section 2170 of the Business and Professions Code is repealed.

SEC. 64. Section 2171 of the Business and Professions Code is amended to read:

2171. All applicants for any certificate shall file evidence satisfactory to the Division of Licensing, showing each legally chartered school, approved by the division, in which a resident course of professional instruction was pursued covering the minimum requirements provided for the particular certificate for which the application is filed.

SEC. 65. Section 2173 of the Business and Professions Code is amended to read:

2173. The Division of Licensing shall approve every school which complies with the requirements of this chapter for resident courses of professional instruction and shall admit every applicant to the examination who complies with the requirements provided for the particular certificate for which his application is filed. Nothing in this chapter prohibits the division from considering the quality of the resident courses of professional instruction required.

SEC. 66. Section 2174 of the Business and Professions Code is amended to read:

2174. If any school is disapproved by the Division of Licensing or any applicant for examination is rejected by it, then the school or the applicant may commence an action in the superior court against the division to compel it to approve the school or to admit the applicant to examination or for any other appropriate relief. In such an action the court shall proceed under Section 1094.5 of the Code of Civil Procedure; provided, however, that the court may not exercise an independent judgment on the evidence. The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence may be given by law. The action shall be commenced and tried in the Superior Court of the State of California, in and for the County of Sacramento.

SEC. 67. Section 2175 of the Business and Professions Code is repealed.

SEC. 68. Section 2176 of the Business and Professions Code is amended to read:

2176. For the purposes of this article:

(a) "Board" means the Division of Licensing of the Board of Medical Quality Assurance. "Division" means the Division of Licensing.

(b) "The practice of medicine" means all activities permitted a licensed physician by this chapter, except activities performed in the course of employment as a public health officer, as a medical school faculty member where teaching time is more than 25 percent of the working day, or as an intern or resident.

(c) "An area deficient in physician services" means:

(1) Any county in the state in which the number of physicians, not employed by the United States, engaged in the practice of medicine is found by the board to be in a ratio of less than 100 for every 100,000 county residents, and which the board finds to be in need of physician services.

(2) Any city or area within a county or city in the state, which the board finds to be lacking in adequate physician services.

SEC. 69. Section 2176.5 of the Business and Professions Code is amended to read:

2176.5. The Division of Licensing shall administer the program of loans for medical students, and shall adopt such rules and regulations as are reasonably necessary to carry out the provisions of this article.

SEC. 70. Section 2178 of the Business and Professions Code is amended to read:

2178. No person shall be awarded a loan under this chapter unless he complies with all of the following conditions:

(a) He is a resident of California.

(b) He is enrolled in at least the second year of an approved doctor of medicine program in California, or is enrolled in a program of supervised clinical training established pursuant to Section 2193.75 and has completed a resident course of medical instruction equivalent to that required in Section 2192 for applicants for a physicians and surgeons certificate in a medical school located outside of the United States or Canada.

(c) He has complied with all the rules and regulations adopted pursuant to this article.

(d) He has agreed with the Division of Licensing to continue his education and training with the intention of practicing medicine in an area deficient in physician services.

(e) He has demonstrated his financial need according to written guidelines published by the board.

SEC. 71. Section 2178.5 of the Business and Professions Code is amended to read:

2178.5. Applications for loans shall be made to the Division of Licensing, upon forms provided by it, at the times and in the manner prescribed by the rules and regulations adopted by the division.

SEC. 72. Section 2179 of the Business and Professions Code is amended to read:

2179. The Division of Licensing shall award the loans to

applicants which it determines have the greatest financial need for such funds. The division shall not award any loan to an applicant if it determines that the applicant has adequate financial resources to support himself and his family.

SEC. 73. Section 2179.5 of the Business and Professions Code is amended to read:

2179.5. The loan shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance in equal or graduated periodic installments, according to a schedule agreed upon by the board and the borrower, over a 10-year period which shall begin three years after the student ceases to pursue a full-time course of study at a school of medicine, excluding from such 10-year period all periods, up to three years, of (1) active duty performed by the borrower as a member of the armed forces of the United States, or (2) nonmilitary public service performed by the borrower which the board finds to be in the public interest.

SEC. 74. Section 2180.5 of the Business and Professions Code is amended to read:

2180.5. The liability to repay the unpaid balance of the loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Division of Licensing determines that he has become permanently disabled and is unable to engage in substantial gainful activity.

SEC. 75. Section 2181.5 of the Business and Professions Code is amended to read:

2181.5. The Division of Licensing shall, under the provisions of this article, make a determination as to which areas of the state are deficient in physician services. This study shall be updated every two years and shall be the basis for notifying loan recipients of areas which will satisfy the loan exemption provisions of this article.

SEC. 76. Section 2182 of the Business and Professions Code is amended to read:

2182. The Division of Licensing may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 2179.5 or cancellation of part or all of the loan under Section 2180.5 or 2181 for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed two dollars ($2) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

SEC. 77. Section 2190.5 of the Business and Professions Code is amended to read:

2190.5. All references in this article to the board, the Board of Medical Examiners, or the division shall mean the Division of Licensing.

SEC. 78. Section 2191 of the Business and Professions Code is amended to read:

2191. Each applicant shall present evidence satisfactory to the

Division of Licensing that he has completed a two-year resident course of college grade, or its equivalent, before completing the study of medicine.

The two-year resident course of college grade shall include the subjects of physics, chemistry, and biology. In the event that one of the above subjects was not completed as a part of the two-year resident course of study, an applicant must complete a course of instruction in such subject in an institution of higher learning satisfactory to the division prior to taking the written examination.

SEC. 79. Section 2191.6 of the Business and Professions Code is amended to read:

2191.6. The provisions of Section 2191 of this code do not apply to any person who holds a drugless practitioner's certificate issued by the Board of Medical Quality Assurance of the State of California, if (a) such person has conducted a legally licensed practice for a period of five years or more, and (b) such person at the time of application to the Board of Medical Quality Assurance of the State of California for a physician's and surgeon's certificate has successfully completed the courses of professional instruction required by Section 2290 of this code in a recognized school.

SEC. 80. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the Division of Licensing that he has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the Division of Licensing, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the division, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
  Embryology
  Histology
  Neuroanatomy
Physiology
Psychobiology
Medicine
  Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology
  and immunology
Pharmacology
Preventive medicine
  Hygiene and sanitation
Surgery, including
  orthopedic surgery
  Urology
  Ophthalmology
  Radiology
  Anesthesia
  Otolaryngology
  Obstetrics and
    gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including orthopedic surgery
Urology
Ophthalmology
Child abuse detection and treatment
Pharmacology
Preventive medicine, including nutrition
Radiology, including radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and gynecology
Human sexuality as defined in Section 2192.3

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the division that he or she has completed a year's service satisfactory to the division in a hospital approved by the division for first-year postgraduate studies. At the discretion of the division the written examination provided for in Section 2288 may be taken following completion of his or her medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the division that a degree has been issued to him or her by the school. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

SEC. 81. Section 2192.3 of the Business and Professions Code is amended to read:

2192.3. "Human sexuality" as used in Sections 2101.6 and 2192 means the study of a human being as a sexual being and how he or she functions with respect thereto.

The Division of Licensing shall determine the content and length of training in human sexuality, and the division shall proceed immediately upon the effective date of this section to determine what training, and the quality of staff to provide such training, is available. The division shall report its determinations to the Legislature on or before July 1, 1977.

In the event that any licensing board or agency proposes to

establish a training program in human sexuality, such board or agency shall first consult with other licensing boards or agencies which have established or propose to establish a training program in human sexuality to insure that such programs are compatible in scope and content.

SEC. 82. Section 2192.7 of the Business and Professions Code is repealed.

SEC. 83. Section 2192.8 of the Business and Professions Code is amended to read:

2192.8. Notwithstanding the provisions of Section 2191 and 2192 of the Division of licensing may approve applications from those graduates of approved medical schools if the applicant presents evidence satisfactory to the division that he has completed all of the requirements for application under a section of this chapter and, in addition, has met all of the following requirements:

(a) He has matriculated subsequent to June 30, 1963, in a medical school located in the United States or Canada approved by the division.

(b) He has successfully completed at least a six-year resident course of college grade to include preliminary and professional medical educational requirements. Subjects in the area of physical, chemical, and biological sciences shall have been included in such resident course of instruction before commencing the study of primarily clinical subjects.

(c) He has successfully completed a medical curriculum, approved by the division, extending over a period of at least 33 academic months. The curriculum provided for in this section shall include those subjects specified in Section 2192 and shall consist of a minimum of 4,000 hours.

(d) Before a physician's and surgeon's license may be issued each applicant shall show by evidence satisfactory to the division that he has completed a year's service satisfactory to the division in a hospital approved by the division for the training of interns.

At the discretion of the division, the written examination provided for in Section 2288 may be taken following completion of his medical course and prior to the granting of a degree by the school, provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the division that a degree has been issued him by the school.

Nothing contained in this section shall prohibit the division from disapproving any special medical curriculum nor from denying the application if, in the opinion of the division, the instruction received by the applicant is not equivalent to that required in this article for a physician and surgeon applicant.

SEC. 84. Section 2193 of the Business and Professions Code is amended to read:

2193. Any applicant who does not qualify under Section 2193.5 and whose application is based on a medical education acquired in a country other than the United States or Canada shall provide

evidence satisfactory to the Division of Licensing that he has done each of the following:

(a) He has completed in a medical school or schools a resident course of professional instruction equivalent to that required by Sections 2191 and 2192 for a physician and surgeon applicant and has been issued a document approved by the division which shows final and successful completion of the course.

(b) He has been admitted or licensed to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.

(c) He has completed one of the following types of hospital service:

(1) He has completed the premedical education required by Section 2191 in a college or university in the United States and has served at least one year in a clinical service satisfactory to the division in a hospital located in the United States or Canada which the division finds provides satisfactory first-year postgraduate training.

(2) He has served at least one year in a clinical service satisfactory to the division in a hospital located in this state which the division finds provides satisfactory first-year postgraduate training.

(3) He has served at least two years of clinical service satisfactory to the division in a hospital located in the United States or Canada which the division finds provides satisfactory first-year postgraduate training.

(4) He is a diplomate of an American specialty board approved by the American Medical Association, but no more than one year of his specialty training was acquired outside the United States or Canada.

Before a certificate may be issued, the applicant shall not only meet the requirements of subdivisions (a), (b), and (c) but also pass the written examination as provided under Article 10 (commencing with Section 2280) of this chapter, and an oral and comprehensive clinical examination. Prior to commencing any clinical service in a hospital in this state, an applicant shall have first passed the written examination prescribed in Article 10. If the written examination prescribed in Article 10 consists of an examination divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

Nothing contained in this section shall prohibit the division from disapproving any foreign medical school nor from denying the application if, in the opinion of the division, the instruction received by the applicant or the courses were not equivalent to that required in this article for a physician and surgeon applicant.

SEC. 85. Section 2193.5 of the Business and Professions Code is amended to read:

2193.5. Any applicant whose application is based on a medical education acquired in a country other than the United States or Canada and who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen or a

petition for naturalization or comparable document, shall provide evidence satisfactory to the Division of Licensing that he has done each of the following:

(a) He has completed in a medical school or schools a resident course of professional instruction equivalent to that required in Sections 2191 and 2192 for a physician and surgeon applicant, and has been issued a document approved by the division which shows final and successful completion of the course.

(b) He has completed one of the following types of hospital service:

(1) He has been engaged in the practice of medicine in the United States for at least four years in a hospital or hospitals approved by the division for postgraduate training, one of which years shall have been a formal postgraduate training position.

(2) He is a diplomate of an American specialty board approved by the American Medical Association, but no more than one year of the specialty training was acquired outside the United States or Canada.

(3) He has served at least two years of clinical service satisfactory to the division in a hospital located in the United States or Canada which the division finds provides satisfactory first-year postgraduate training.

(4) He has completed the premedical education required by Section 2191 in a college or university located in the United States, and has served at least one year in a clinical service satisfactory to the division in a hospital located in the United States or Canada which the division finds provides satisfactory first-year postgraduate training.

Before a certificate may be issued, the applicant shall not only meet the requirements of subdivisions (a) and (b) of this section, but also pass the written examination as provided under Article 10 (commencing with Section 2280) of this chapter, and an oral and comprehensive clinical examination. Prior to commencing any clinical service in a hospital in this state, an applicant shall have first passed the written examination prescribed in Article 10. If the written examination prescribed in Article 10 consists of an examination divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

Nothing contained in this section shall prohibit the division from disapproving any foreign medical school nor from denying the application if, in the opinion of the division, the instruction received by the applicant or the courses were not equivalent to that required in this article for a physician and surgeon applicant.

SEC. 86. Section 2193.6 of the Business and Professions Code is amended to read:

2193.6. Notwithstanding any other provision of law, any applicant whose medical education was acquired in another country or in the United States and who has been licensed to practice, and who has actively practiced, medicine and surgery for a period of not less than 15 years in a foreign country or other state of the United States, and whose license requirements and medical education are evaluated and deemed satisfactory to the Division of Licensing, shall be required to pass only those portions of the written examination as provided under Article 10 (commencing with Section 2280), relating to clinical competence and clinical science and shall be exempt from other portions of the written examination. Such applicant shall be required to pass an oral and comprehensive clinical examination administered by the division.

SEC. 87. Section 2193.71 of the Business and Professions Code is amended to read:

2193.71. (a) Notwithstanding any other provision of law, a person who is a citizen of the United States shall be eligible for licensure as a physician if he completes the following requirements:

(1) Has completed in a medical school located outside the United States or Canada a resident course of professional instruction equivalent to that required in Section 2192 for a physician and surgeon applicant.

(2) Has presented evidence satisfactory to the Division of Licensing that he has complied with Section 2191.

(3) Has completed all of the formal requirements of the foreign medical school for graduation, except internship or social service.

(4) Has attained a score satisfactory to a medical school approved by the division on a qualifying examination acceptable to the division.

(5) Has successfully completed one academic year of supervised clinical training in a program approved by the division pursuant to Section 2193.75. The division shall recognize successful completion of a one-year program of supervised clinical medical internship operated by a medical school pursuant to Section 2193.7 as added by Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section. Nothing shall prevent an individual who has successfully completed such supervised clinical special internship from applying for licensure under the provisions of this section, provided such individual meets all of the other requirements of this section.

(6) He has served at least one year in a clinical service satisfactory to the division in a hospital located in the United States or Canada which the division finds provides satisfactory first-year postgraduate training.

(7) Has passed the examination required by the division for all applicants for licensure.

(b) Satisfaction of the requirements of subdivision (a) of this

section shall be in lieu of the completion of any foreign internship or social service requirements, and no such requirements shall be a condition of licensure as a physician in this state.

(c) No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who at the time of his enrollment in a medical school outside the United States is a citizen of the United States, to satisfy any requirements other than those contained in paragraphs (1), (2), (3), (4), and (5) of subdivision (a) of this section prior to commencing the postgraduate training required by paragraph (6) of subdivision (a) which is not required for graduates of approved medical schools in the United States and Canada.

SEC. 88. Section 2193.72 of the Business and Professions Code is amended to read:

2193.72. Nothing shall preclude an individual applying for licensure under the provisions of Section 2193 or 2193.5, from commencing an internship program required for licensure if such individual has completed the licensing examination required by the Division of Licensing, but has not yet been notified of the score received on such examination. In the event an individual is notified that he has not passed the licensing examination, he shall not be eligible to continue in an internship program, until he has attained a score satisfactory to the division.

SEC. 89. Section 2193.75 of the Business and Professions Code is amended to read:

2193.75. The Division of Licensing shall approve programs of supervised clinical training in hospitals for the purpose of providing basic clinical training to students who are graduates of foreign medical schools or have completed all the formal requirements for graduation except for internship or social service. Such programs shall be under the direction of medical schools approved by the division.

SEC. 90. Section 2194 of the Business and Professions Code is amended to read:

2194. An applicant, whose application is based on a diplomate certificate issued by the National Board of Medical Examiners of the United States, shall pay the fee provided by this chapter and, in addition to all other requirements provided for a physician's and surgeon's certificate, he shall satisfy the Division of Licensing that the standard of the National Board of Medical Examiners on the date that the diplomate certificate was issued was in no degree or particular less than that which was required for a physician's and surgeon's certificate under this chapter on the same date.

He shall also satisfy the division that the diplomate certificate was procured without fraud or misrepresentation and that at no time has any certificate or license issued by any state of the United States or issued by a foreign country been revoked or annulled for unprofessional conduct.

The division may, in its discretion, with or without an oral

examination, issue a certificate to an applicant who has complied with the requirements provided for a diplomate certificate.

SEC. 91. Section 2194.5 of the Business and Professions Code is amended to read:

2194.5. Notwithstanding any other provision of this chapter, the Division of Licensing may delegate to any member of the division its authority to approve applicants for admission to the examination provided for by Section 2194, to approve the issuance of certificates under that section, and to issue certificates under that section to persons who have qualified for such certificates either with or without an examination.

SEC. 92. Section 2195 of the Business and Professions Code is repealed.

SEC. 93. Section 2210.5 of the Business and Professions Code is amended to read:

2210.5. All references in this article to the board, Board of Medical Examiners, or the division shall mean the Division of Licensing.

SEC. 94. Section 2211 of the Business and Professions Code is amended to read:

2211. This article applies to any medical director, medical inspector, past assistant surgeon and assistant surgeon of the United States Navy, and to any surgeon of the United States Army, and to medical officers of the same class who served as such officers in any of the armed forces of the United States during the period December 7, 1941, to December 31, 1946. Each applicant in any such service shall be one who is honorably discharged, temporarily detached, placed upon the retired list without being discharged from, or on active duty in the medical department of the United States Army, Navy, or any of the armed forces of the United States, or who, by resignation, has honorably severed all connections with any such service.

SEC. 95. Section 2212 of the Business and Professions Code is amended to read:

2212. This article applies to any surgeon general, assistant surgeon general, senior surgeon, surgeon, past assistant surgeon, and assistant surgeon of the United States Public Health Service, who is on active duty with this service, or temporarily detached, or one who has honorably severed all connection with this service.

SEC. 96. Section 2214 of the Business and Professions Code is amended to read:

2214. An applicant to whom this article applies shall file an application on a form approved by the Division of Licensing accompanied by a sworn copy of his discharge, or the order temporarily detaching him, or the order placing him on the retired list with the division or he shall prove to the satisfaction of the board that, by resignation, he has honorably left the service of the Army, Navy or Public Health Service. He shall pay the fee required by this chapter.

SEC. 97. Section 2215 of the Business and Professions Code is

amended to read:

2215. If the application is favorably acted upon by the Division of Licensing, it shall issue a physician's and surgeon's certificate.

SEC. 98. Section 2216 of the Business and Professions Code is amended to read:

2216. If it appears to the satisfaction of the Division of Licensing that the applicant was commissioned in the United States Army, Navy, Public Health Service, or any service in the armed forces of the United States as defined in Section 2210 of this code, the division shall require the applicant to pass the physician's and surgeon's examination before a certificate may be issued.

SEC. 99. Section 2280.5 of the Business and Professions Code is amended to read:

2280.5. All references in this article to the board, the Board of Medical Examiners, or the division shall mean the Division of Licensing.

SEC. 100. Section 2282 of the Business and Professions Code is amended to read:

2282. The examination shall be conducted in the English language. Upon the submission of satisfactory proof from the applicant that he is unable to meet the requirements of the examination in the English language, the Division of Licensing may allow the use of an interpreter, either to be present in the examination room or thereafter to interpret and transcribe the answers of the applicant. The selection of the interpreter shall be left entirely to the division and his expenses shall be borne by the applicant. The payment of his expenses shall be made before the examination is held.

SEC. 101. Section 2283 of the Business and Professions Code is amended to read:

2283. The examinations may be conducted in any part of this state or another state designated by the Division of Licensing or, in the case of the podiatrist's examination, by the examining committee. The notice of each meeting of the division or examining committee at which an examination is to be held, shall specify the time and place of holding the examination.

SEC. 102. Section 2284 of the Business and Professions Code is amended to read:

2284. The examination papers shall form a part of the records of the Division of Licensing, and shall be kept on file by the secretary-treasurer for a period of one year. In the examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the division has finally voted upon the application.

SEC. 103. Section 2285 of the Business and Professions Code is amended to read:

2285. All questions on any subject in which a written examination is required under this chapter shall be provided by the Division of Licensing or, in the case of a podiatrist examination, by the examining committee, upon the morning of the day upon which the

examination is given. If it is shown that the secretary-treasurer or any member of the division or any member of the examining committee has in any manner given information in advance of or during the examination to any applicant, the Governor shall remove him from the division, or from the office of secretary-treasurer, or from the examining committee.

SEC. 104. Section 2294 of the Business and Professions Code is amended to read:

2294. Examinations for the physician's and surgeon's certificate and for the podiatrist's certificate may be conducted by the Division of Licensing and the examining committee, respectively, under a uniform examination system, and for that purpose the division or the examining committee may make such arrangements with organizations furnishing examination material as may in its discretion be desirable.

If the written examination prescribed in this article consists of an examination divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

SEC. 105. Section 2309 of the Business and Professions Code is amended to read:

2309. All references in this article to the board, the Board of Medical Examiners or the division shall mean the Division of Licensing.

SEC. 106. Section 2310 of the Business and Professions Code is amended to read:

2310. The Division of Licensing shall issue a reciprocity certificate to an applicant to practice a system or mode of treating the sick or afflicted in this state that he is authorized to practice in any other state if it is a system or mode that is recognized by this chapter or any preceding practice act. Subject to the provisions of Sections 2320 and 2321, no examination for any reciprocity certificate shall be required.

This section, however, shall apply only to persons who have been granted the degree of doctor of medicine or doctor of podiatric medicine after the completion of a full course of study as prescribed by this chapter in an approved medical or podiatric school.

No person who graduated from podiatric school on or before June 30, 1958, shall be eligible for a reciprocity certificate to practice podiatry.

SEC. 107. Section 2310.1 of the Business and Professions Code is amended to read:

2310.1. The Division of Licensing shall issue a reciprocity certificate to an applicant to practice a system or mode of treating the sick or afflicted in this state, provided such applicant meets the following requirements:

(a) The applicant is licensed as a physician and surgeon in any other state whose licensing examination is recognized by the division to be the equivalent in content to that administered in California.

(b) He has practiced in such state for at least four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any public agency concerned with the practice of medicine and that the applicant has not been the subject of adverse judgments resulting from the practice of medicine which the division determines constitutes evidence of a pattern of incompetence or negligence.

(d) He passes an oral and comprehensive clinical examination.

SEC. 108. Section 2312 of the Business and Professions Code is amended to read:

2312. The applicant shall pay the reciprocity fee required by this chapter and shall file a verified application, on a form furnished by the division, containing his full name, and such other general information concerning his past practice or vocation as may be required by the division.

SEC. 109. Section 2313 of the Business and Professions Code is amended to read:

2313. He shall submit evidence satisfactory to the Division of Licensing in the case of an applicant for a physician's and surgeon's certificate, and to the examining committee, in the case of an applicant for a podiatrist's certificate, that he has all the following:

(a) Has not committed acts or crimes constituting grounds for denial of a certificate under Section 480.

(b) Has not failed in a written or oral examination given by either the division or the examining committee for a similar certificate under this chapter or any preceding medical practice act of this state.

SEC. 110. Section 2314 of the Business and Professions Code is amended to read:

2314. He shall file a statement of each certificate that has been issued to him by any medical or podiatric licensing authority to practice a system or mode of treating the sick or afflicted which is recognized by this chapter or any preceding medical practice act.

This statement shall contain the date of each certificate, a description of each of them and, if required by the Division of Licensing, or by the examining committee in the case of a podiatry certificate, each certificate itself. If a certificate has been lost, a copy may be filed together with proof satisfactory to the division or the examining committee, respectively, that the copy is a correct one and that the certificate was issued to him without fraud or misrepresentation.

SEC. 111. Section 2315 of the Business and Professions Code is amended to read:

2315. The certificate, upon which his application is based, shall have been issued to him within a period of five years immediately preceding the filing of his application at the office of the Division of Licensing in the City of Sacramento.

SEC. 112. Section 2316 of the Business and Professions Code is amended to read:

2316. On his application form he shall inform the Division of Licensing, or the examining committee in the case of a podiatry applicant, of all institutions from which he has graduated and of all

institutions at which he has studied and the period of this study.

The requirements of the college from which he has graduated and the requirements of the medical or podiatric licensing authority shall not have been at the time his certificate was issued in any degree or particular less than those which were required for the issuance of a similar certificate to practice a system or mode of treating the sick or afflicted in this state at the same time.

SEC. 113. Section 2316.5 of the Business and Professions Code is amended to read:

2316.5. An applicant for a reciprocity certificate shall prove that a diploma or other evidence of final, successful and entire completion of instruction and training required by a school approved by the Division of Licensing was a condition precedent to his admission to the examination for the license upon which his application for a certificate in this state is based.

SEC. 114. Section 2317 of the Business and Professions Code is amended to read:

2317. He shall submit evidence of his own and from the medical or podiatric licensing authority, which is satisfactory to the Division of Licensing, or to the examining committee in the case of a podiatry applicant, and which shows that the requirements of the authority for a certificate permitting him to practice a system or mode of treating the sick and afflicted at the time it was issued, were not in any degree or particular less than those which were required for the issuance of a similar certificate to practice a system or mode of treating the sick and afflicted in this state at the same time.

SEC. 115. Section 2319 of the Business and Professions Code is amended to read:

2319. An applicant for a reciprocity certificate need not have completed his year's service prior to the issuance to him of a license in the other state; provided, however, that a one-year's service satisfactory to the Division of Licensing in a hospital approved by the division for the training of interns shall have been completed by the applicant before application to the division for a reciprocity certificate.

SEC. 116. Section 2320 of the Business and Professions Code is amended to read:

2320. The division, or the examining committee in the case of a podiatry applicant, may make an independent investigation of the educational qualifications and the ability and standing of the applicant.

If, after this investigation and any other or further examination or investigation which the division or the examining committee may see fit to make on its own part, it is found that the requirements of the medical or podiatric licensing authority issuing his certificate were in any degree or particular less than the requirements provided by the law of this state at the date of the issuance of his certificate, or that the applicant has not complied with one of the alternatives provided by Section 2319, he will not be entitled to practice in this state without examination.

SEC. 117. Section 2321 of the Business and Professions Code is amended to read:

2321. An applicant for a reciprocity certificate, whose application is based on a certificate issued by a medical or podiatric licensing authority of another state, five or more years prior to the date of the filing of his application with the Division of Licensing, shall be required to take an oral examination to be given in accordance with the provisions of Sections 2323 and 2324, if the division, or the examining committee in the case of a podiatry applicant, finds that he has met all the requirements of this article from which he is not expressly excepted.

SEC. 118. Section 2322 of the Business and Professions Code is amended to read:

2322. An applicant, for a reciprocity certificate, whose application is based on a certificate that has been issued five or more years prior to the date his application is filed with the Division of Licensing, shall comply with all the provisions of this article except the provisions of Sections 2315 and 2320.

SEC. 119. Section 2323 of the Business and Professions Code is amended to read:

2323. The Division of Licensing or examining committee shall afford him an examination within six months subsequent to the filing of the application. It shall be oral, practical and clinical in nature and full consideration shall be given to the duration and character of the applicant's practice.

SEC. 120. Section 2324 of the Business and Professions Code is amended to read:

2324. If, after the examination referred to in Sections 2321 and 2323, it is determined by a majority vote of the Division of Licensing, or, in the case of a podiatry applicant, by a majority vote of the division upon a recommendation by a majority vote of the examining committee, that the applicant is qualified to practice a system or mode of treating the sick and afflicted which he seeks to practice in this state, he shall be entitled to receive a reciprocity certificate.

SEC. 121. Section 2327.5 of the Business and Professions Code is amended to read:

2327.5. Notwithstanding any other provision of this chapter, the Division of Licensing may delegate to any member of the division its authority to approve applicants for admission to the examination required by this article, to approve the issuance of certificates under this article, and to issue certificates under this article to persons who have qualified for such certificates either with or without examination.

SEC. 122. Section 2350.5 of the Business and Professions Code is amended to read:

2350.5. All references in this article to the board, Board of Medical Examiners, or the division shall mean the Division of Allied Health Professions.

SEC. 123. Section 2351 of the Business and Professions Code is amended to read:

2351. The certificate to practice midwifery may be revoked if it appears to the satisfaction of the Division of Allied Health Professions that due caution and circumspection were not used or that proper aseptic and antiseptic precautions were not taken in any case that the holder of this form of certificate may have treated.

SEC. 124. Section 2361 of the Business and Professions Code is amended to read:

2361. The Division of Medical Quality shall take action against any holder of a certificate, who is guilty of unprofessional conduct which has been brought to its attention, or whose certificate has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter.

(b) Gross negligence.

(c) Repeated similar negligent acts.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.

(f) Any action or conduct which would have warranted the denial of the certificate.

SEC. 125. Section 2374 of the Business and Professions Code is repealed.

SEC. 126. Section 2375 of the Business and Professions Code is repealed.

SEC. 127. Section 2376 of the Business and Professions Code is repealed.

SEC. 128. Section 2376.5 of the Business and Professions Code is amended to read:

2376.5. A person, whose certificate has been revoked or suspended for more than one year, may petition the Division of Medical Quality to reinstate the certificate after a period of not less than one year has elapsed from the date of the revocation or suspension.

The petition shall state such facts as may be required by the Division of Medical Quality. The petition shall be accompanied by two or more verified recommendations from physicians and surgeons licensed by the Division of Licensing to which the petition is addressed and by two or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard at the next regular meeting of the Division of Medical Quality, held not earlier than 30 days after the petition was filed. The hearing may be continued from time to time as the Division of Medical Quality finds necessary. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any

period during which he is on probation or parole.

In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Division of Medical Quality may investigate and consider all activities of the petitioner since the disciplinary action was taken against him, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character, and may require the petitioner to pass an oral or written examination, or both, at the option of the Division of Medical Quality. The affirmative vote of at least five of the members of the Division of Medical Quality is necessary to set aside a penalty and to restore a certificate with or without terms, conditions and restrictions. The affirmative vote of at least three ofthe members of the Board of Osteopathic Examiners is necessary to set aside a penalty and to restore a certificate with or without terms, conditions, and restrictions. The Division of Medical Quality may grant or deny, without a hearing or argument, any petition filed pursuant to this section, where the petitioner has been afforded a hearing upon any petition filed pursuant to this section within a period of two years immediately preceding the filing of such petition.

The secretary-treasurer of the Division of Medical Quality shall enter in his records of the case all actions of the division in setting aside a disciplinary penalty under this section.

SEC. 129. Section 2383 of the Business and Professions Code is amended to read:

2383. The conviction of any offense, substantially related to the qualifications, functions and duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Division of Medical Quality may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction is of an offense substantially related to the qualifications, functions and duties of a physician and surgeon. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a physician and surgeon is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 130. Section 2451 of the Business and Professions Code is amended to read:

2451. All licenses expire and become invalid at 12 p.m. on the last day of February of each even-numbered year if not renewed.

To renew an unexpired license, the licensee shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the Division of Licensing or the Division of Allied Health Professions, and pay the prescribed renewal fee, if any.

SEC. 131. Section 2452.1 of the Business and Professions Code is amended to read:

2452.1. A person who fails to renew his license within five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if:

(a) He has not committed acts or crimes constituting grounds for denial of licensure under Section 480,

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the license for the first time, or otherwise establishes to the satisfaction of the Division of Licensing, the Division of Allied Health Professions, or examining committee, as the case may be, with authority to pass on the qualifications of applicants for such license that, with due regard for the public interest, he is qualified to practice or engage in the profession or activity in which he again seeks to be licensed, and

(c) He pays all of the fees that would be required of him if he were then applying for the license for the first time.

The licensing authority may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination pursuant to the provisions of this section.

This section shall not be construed to authorize the issuance of a license or certificate of drugless practitioner, or a license or certificate to practice midwifery, or to practice naturopathy.

SEC. 132. Section 2455.6 of the Business and Professions Code is amended to read:

2455.6. Upon filing application therefor and the payment of the indorsement fee, the Division of Licensing may indorse or certify the credentials of a person licensed under this chapter.

SEC. 133. Section 2463 of the Business and Professions Code is repealed.

SEC. 134. Section 2525.5 of the Business and Professions Code is amended to read:

2525.5. All members of the committee shall be appointed for terms of four years. Vacancies shall immediately be filled by the Governor for the unexpired portion of the terms in which they occur. In filling vacancies, except for a vacancy as to the public member, the Governor shall give consideration to recommendations of the Board of Medical Quality Assurance, after the board has consulted with the Podiatry Examining Committee. No person shall serve as a member of the committee for more than two consecutive terms.

The Governor shall appoint the public member as provided at the

1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of any of the members who are licensed under this division.

SEC. 136. Section 2525.20 of the Business and Professions Code is amended to read:

2525.20. A person who applies for a reciprocity certificate as a podiatrist on the basis of a certificate issued by the National Board of Podiatry Examiners of the United States shall be eligible for the certificate without examination if all of the following requirements are met:

(a) He files his application within five years after the issuance of the diplomate certificate.

(b) He graduated from an approved school of podiatry after June 30, 1958.

(c) The standards of the national board on the date the diplomate certificate was issued were in no degree or particular less than those required for a podiatrist's certificate under this chapter on the same date.

If he files his application more than five years after the issuance of the diplomate certificate, he shall be required to take an oral examination given in accordance with the provision of Section 2321.

A person who applies under this section shall not have committed acts or crimes constituting grounds for denial of a certificate under Section 480.

SEC. 137. Section 2530.5 of the Business and Professions Code is amended to read:

2530.5. (a) Nothing in this chapter shall be construed as restricting hearing testing conducted by licensed physicians and surgeons or by persons conducting such tests under the direct supervision of a physician and surgeon.

(b) Nothing in this chapter shall be construed to prevent a licensed hearing aid dispenser from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids nor do the provisions of this chapter restrict persons practicing their licensed profession and operating within the scope of their licensed profession or employed by someone operating within the scope of their licensed professions, such as persons fitting and selling hearing aids who are properly licensed or registered under the laws of the State of California.

(c) Nothing in this chapter shall be construed as restricting or preventing activities of a speech pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons, if they are performing those activities as part of the duties for which they were employed, are performing such activities solely within the confines of or under the jurisdiction of the organization in which they are employed and do not offer to render speech pathology or audiology services as defined in Section 2530.2, to the public for compensation, over and above the salary they receive for the performance of their official duties with the organization in which they are employed:

(1) Persons who are registered as qualified school audiometrists, pursuant to Section 1685 and Section 1686 of the Health and Safety Code;

(2) Persons who hold a valid and current credential as a speech and hearing specialist or teacher of the deaf issued by the Commission for Teacher Preparation and Licensing;

(3) Persons employed in positions as speech pathologists or audiologists by accredited colleges or universities. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(4) Persons employed as speech pathologists or audiologists by federal agencies.

(d) Nothing in this chapter shall be construed as restricting the activities in services of a graduate student or speech pathology intern in speech pathology pursuing a course of study leading to a graduate degree in speech pathology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his supervised course of study and that such persons are designated by such title as "speech pathology intern," "speech pathology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(e) Nothing in this chapter shall be construed as restricting the activities in services of a graduate student or audiology intern in audiology pursuing a course of study leading to a graduate degree in audiology at an accredited or approved college or univesity or an approved clinical training facility, provided that these activities and services constitute a part of his supervised course of study and that such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(f) Nothing in this chapter shall be construed as restricting the activities and services of a speech pathologist who is obtaining his required professional experience, if such a person is under the supervision of a licensed speech pathologist or a speech pathologist holding a speech and hearing specialist credential issued by the State Board of Education pursuant to Section 13135 of the Education Code or qualifications deemed equivalent by the committee. The number of speech pathologists who may be supervised by a licensed speech pathologist or a speech pathologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising speech pathologist shall register with the committee the name of each speech pathologist working under his supervision, and shall submit to the committee a description of the proposed professional responsibilities of the speech pathologists working under his supervision.

(g) Nothing in this chapter shall be construed as restricting the

activities and services of an audiologist who is obtaining his required professional experience, provided that such person is under the supervision of a licensed audiologist or an audiologist having qualifications deemed equivalent by the committee. The number of audiologists who may be supervised by a licensed audiologist or an audiologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising audiologist working under his supervision shall submit to the committee a description of the proposed professional responsibilities of the audiologists working under his supervision.

SEC. 138. Section 2530.6 of the Business and Professions Code is amended to read:

2530.6. Speech pathologists and audiologists supervising speech pathology or audiology aides shall register with the committee the name of each aide working under their supervision. The number of aides who may be supervised by a licensee shall be determined by the committee. The supervising audiologist or speech pathologist shall be responsible for the extent, kind and quality of services performed by the aide, consistent with the committee's designated standards and requirements.

SEC. 139. Section 2531 of the Business and Professions Code is amended to read:

2531. There is hereby created a Speech Pathology and Audiology Examining Committee under the jurisdiction of the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California. The committee shall consist of nine members, appointed by the Governor, three of whom shall be public members.

SEC. 140. Section 2531.2 of the Business and Professions Code is amended to read:

2531.2. The membership of the committee shall include three speech pathologists, three audiologists, and three public members one of whom is a licensed physician and surgeon, board-certified in otolaryngology, and the remaining two public members shall not be licentiates of the committee or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

SEC. 141. Section 2532.1 of the Business and Professions Code is amended to read:

2532.1. (a) Each person desiring to obtain a license shall make application to the committee, upon such a form as prescribed by the committee.

(b) A separate license shall be granted in both speech pathology and audiology. An applicant may be granted both licenses upon successful completion of the requirements for both licenses.

SEC. 142. Section 2532.2 of the Business and Professions Code is amended to read:

2532.2. To be eligible for licensure by the committee as a speech pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master's degree in speech pathology or

audiology from an educational institution approved by the committee, or a speech and hearing specialist credential issued by the State Board of Education pursuant to Section 13135 of the Education Code or qualifications deemed equivalent by the committee.

(b) Submit transcripts from an educational institution approved by the committee evidencing the successful completion of at least 60 semester hours of courses related to the normal development, function, and use of speech, hearing, and language; and courses that provide information about, and training in, the management of speech, hearing, and language disorders, including the legal, professional, and ethical practices of speech pathology and audiology. At least 24 semester units, not including credits for thesis or dissertation, shall be in the field for which the license is sought.

(c) An applicant shall submit evidence of the completion of 275 clock hours of supervised clinical experience with individuals representative of a wide spectrum of ages and communication disorders.

(d) An applicant shall submit evidence of no less than nine months of supervised full-time experience or 18 months of part-time experience obtained under the supervision of a licensed speech pathologist or audiologist or a speech pathologist or audiologist having qualifications deemed equivalent by the committee. This experience shall follow completion of requirements listed in subdivisions (a), (b), and (c). Full time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Part time is defined as a minimum of 18 months and a minimum of 15 hours per week.

(e) Pass an examination or examinations approved by the committee. The committee shall determine the subject matter and scope of such examinations and may waive the examination upon evidence that the applicant has successfully completed an examination approved by the committee. Written examinations may be supplemented by such oral examinations as the committee shall determine. An applicant who fails his examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

SEC. 142.5. Section 2532.3 of the Business and Professions Code is repealed.

SEC. 143. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue a license on the grounds specified in Section 480, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct, which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include actions corresponding to those enumerated in Section 17867.

SEC. 144. Section 2533.1 of the Business and Professions Code is amended to read:

2533.1. A plea or verdict of guilty or a conviction following a plea

of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a speech pathologist or audiologist is deemed to be a conviction within the meaning of this article. The board may order a license be suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affixed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 145. Section 2535.2 of the Business and Professions Code is amended to read:

2535.2. Except as provided in Section 2535.3, a license which has expired may be renewed at any time within two years after its expiration on filing of application for renewal on a form prescribed by the committee and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2535, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 146. Section 2535.3 of the Business and Professions Code is amended to read:

2535.3. A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended, and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license revoked on disciplinary grounds is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

SEC. 147. Section 2536 of the Business and Professions Code is amended to read:

2536. A speech pathology corporation is a corporation which is registered with the Speech Pathology and Audiology Examining Committee of the Division of Allied Health Professions of the Board of Medical Quality Assurance with reference to corporations rendering professional services as speech pathologists and has a currently effective certificate of registration from the board pursuant to the Professional Corporation Act, as contained in Part 4

(commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such speech pathology corporation is entitled to practice speech pathology. With respect to a speech pathology corporation, the governmental agency referred to in the Professional Corporation Act is the Division of Allied Health Professions of the Board of Medical Quality Assurance with reference to corporations rendering professional services as speech pathologists. As used in this article, the "board" refers to the Division of Allied Health Professions of the Board of Medical Quality Assurance, and the "committee" refers to the Speech Pathology and Audiology Examining Committee.

SEC. 148. Section 2537 of the Business and Professions Code is amended to read:

2537. An audiology corporation is a corporation which is registered with the Speech Pathology and Audiology Examining Committee of the Division of Allied Health Professions of the Board of Medical Quality Assurance with reference to corporations rendering professional services as audiologists and has a currently effective certificate of registration from the board pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, such audiology corporation is entitled to practice audiology. With respect to an audiology corporation, the governmental agency referred to in the Professional Corporation Act is the Division of Allied Health Professions of the Board of Medical Quality Assurance with reference to corporations rendering professional services as audiologists. As used in this article, the "board" refers to the Division of Allied Health Professions of the Board of Medical Quality Assurance, and the "committee" refers to the Speech Pathology and Examining Audiology Committee.

SEC. 149. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. The State Department of Health Services, the State Board of Optometry and the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance shall prepare and adopt quality standards and promulgate regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. Regulations adopted subsequent to those in effect on July 1, 1976, shall become operative July 1, 1978. In promulgating such rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards which are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

No individual or group which deals with prescription ophthalmic

devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device which does not meet the minimum standards set by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance.

Any violation of the regulations promulgated by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be a misdemeanor.

Any optometrist, ophthalmologist, or dispensing optician who violates the regulations promulgated by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be subject to disciplinary action by his licensing board.

The State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance may send any prescription ophthalmic device to the State Department of Health Services for testing as to whether or not such device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct such testing in its own facilities or may contract with any other facility to conduct such testing.

SEC. 150. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. Effective January 1, 1977, no prescription ophthalmic device which does not meet the standards promulgated by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance under Section 2541.3 shall be purchased with state funds.

SEC. 151. Section 2552 of the Business and Professions Code is amended to read:

2552. Each application, to enable the board to determine if applicant is entitled to be registered under this chapter, shall be verified under oath by the person or persons required to sign the application and shall contain the matters referred to in subdivision (a) and be accompanied by the affidavits referred to in subdivision (b):

(a) The name, address and time, place and extent of the previous experience of each person signing the application and likewise of the person or persons who will have charge of or manage applicant's general dispensing operations, and of each person having any proprietary interest in applicant who will engage in dispensing operations. The person or persons who will be in charge of or who

will manage applicant's general dispensing operations and each person having any proprietary interest in applicant who will engage in dispensing operations shall have at least five full years of actual experience in fitting and adjusting any prescription lens or lenses.

(b) The sworn affidavits, in a form prescribed by the board, of three physicians and surgeons who specialize in the treatment of eyes and who are (1) duly licensed by the Board of Medical Quality Assurance or (2) eligible to be admitted to practice medicine in the state without written examination, stating and certifying according to the personal knowledge of such physician and surgeon signing the same, that each person referred to in subdivision (a) has the required experience, has not committed acts or crimes constituting grounds for denial of registration under Section 480, and that applicant and each such person is fully competent and qualified to accurately fill prescriptions for such prescription lens or lenses or kindred products and to fit and adjust such lenses.

Applicant shall furnish such additional information or proof, oral or written, with respect to the competency and qualifications of the applicant and each of the foregoing persons which the board may request.

The board in considering any application for a renewal of a certificate may in its discretion require from applicant the same information and proof with respect to any or all of the foregoing matters.

SEC. 152. Section 2553 of the Business and Professions Code is amended to read:

2553. If the board, after investigation, approves such application and finds the applicant to be competent and qualified to engage in the business of dispensing optician it shall register such applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine it shall deny the application. A separate certificate of registration shall be required for each address where the business is to be conducted. Such certificate authorizes the applicant, its agents and employees acting therefor without further license, to engage in the business defined in Section 2550 of this code. Such certificate of registered dispensing optician shall be at all times displayed in a conspicuous place at the place of business licensed. Such certificate shall not be transferable, but on application to the Division of Allied Health Professions of the Board of Medical Quality Assurance there may be registered a change of address of such certificate.

SEC. 153. Section 2553.1 of the Business and Professions Code is amended to read:

2553.1. Any person who has had five years' experience and has been licensed for such period as a dispensing optician in another state shall be granted a certificate to engage in the business of a dispensing optician in this state upon filing an application in due form and filing an affidavit from three physicians and surgeons licensed by the Board of Medical Quality Assurance who specialize in treatment of the eye, stating and certifying according to their own

knowledge that the applicant has not committed acts or crimes constituting grounds for denial of registration under Section 480, is fully competent and qualified to accurately fill prescriptions for ophthalmic lenses and kindred products and to take facial measurements and to fit and adjust lenses or frames.

SEC. 154. Section 2553.3 of the Business and Professions Code is repealed.

SEC. 155. Section 2553.5 of the Business and Professions Code is repealed.

SEC. 156. Section 2554 of the Business and Professions Code is amended to read:

2554. The provisions of Chapter 5, Article 15 (commencing at Section 2450) apply to the issuance and govern the expiration and renewal of certificates issued under this chapter and the fees payable therefor. All fees collected from persons registered or seeking registration under this chapter shall be paid into the Contingent Fund of the Board of Medical Quality Assurance. The Division of Allied Health Professions of the Board of Medical Quality Assurance may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.

SEC. 157. Section 2555 of the Business and Professions Code is amended to read:

2555. Certificates issued hereunder may in the discretion of the Division of Allied Health Professions of the Board of Medical Quality Assurance be suspended or revoked for incompetence in filling prescriptions or any violations of the provisions of this chapter. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 158. Section 2555.1 of the Business and Professions Code is amended to read:

2555.1. In the discretion of the Division of Allied Health Professions of the Board of Medical Quality Assurance a certificate issued hereunder may be suspended or revoked if an individual certificate holder or the persons referred to in Section 2552 who will have charge of or manage the holder's general dispensing operations, or persons having any proprietary interest who will engage in dispensing operations, have been convicted of a crime substantially related to the qualifications, functions and duties of a dispensing optician. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dispensing optician is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of

sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

The proceeding under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 159. Section 2558 of the Business and Professions Code is amended to read:

2558. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than 10 days nor more than one year, or by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by both such fine and imprisonment.

The Division of Allied Health Professions of the Board of Medical Quality Assurance may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, such rules and regulations as are reasonably necessary to carry out the provisions of this chapter.

SEC. 160. Section 2559 of the Business and Professions Code is amended to read:

2559. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this chapter, or Chapter 5.4 (commencing with Section 2540), the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the Division of Allied Health Professions of the Board of Medical Quality Assurance, the Attorney General or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

SEC. 161. Section 2632 of the Business and Professions Code is amended to read:

2632. All licenses for the practice of physical therapy in this state shall be issued by the board, upon the recommendation and direction of the examining committee, and all applications for such licenses shall be filed with the committee. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a "registered physical therapist licensed by the Division of Allied Health Professions of the Board of Medical Quality Assurance."

Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

SEC. 162. Section 2635 of the Business and Professions Code is amended to read:

2635. Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, not addicted to the intemperate use of alcohol or any narcotic drug, have successfully completed courses of training equivalent to the minimum standard established in this chapter for approval by the examining committee, and not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 163. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of his or her application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the examining committee, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the examining committee, an examination for such licensing or registration that is, in the opinion of the examining committee, comparable to the examination used in this state.

(2) He or she is a graduate of a school of physical therapy approved by the examining committee.

(3) He or she files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state five or more years prior to the date of the filing of his or her application with the board, shall be required to pass an oral examination given by the examining committee.

(c) An applicant who has filed a physical therapy application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, performs as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.

During this period such an applicant shall identify himself or herself only as a "physical therapist license applicant."

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall automatically cease.

SEC. 164. Section 2637 of the Business and Professions Code is amended to read:

2637. Every applicant who is otherwise qualified as provided in this chapter and who receives an average grade of 75 percent or a statistical formula the equivalent thereof on the examination shall be granted a license.

SEC. 165. Section 2655.3 of the Business and Professions Code is amended to read:

2655.3. A person seeking approval as a physical therapist assistant shall make application to the examining committee for such approval. Every person applying for approval as a physical therapist assistant shall have all of the following qualifications:

(a) Have graduated from a school for physical therapist assistants approved by the examining committee or have training or experience or a combination of training and experience which in the opinion of the examining committee is equivalent to that obtained in an approved school.

(b) Successfully pass the examination given under this article.

(c) Not be addicted to the intemperate use of alcohol or any narcotic drug.

(d) Not have committed acts or crimes constituting grounds for denial of approval under Section 480.

SEC. 166. Section 2655.5 of the Business and Professions Code is amended to read:

2655.5. Every applicant for approval as a physical therapist assistant who is otherwise qualified as provided in this article and who receives an average grade of 75 percent or a statistical formula the equivalent thereof on the examination shall be approved as a physical therapist assistant.

SEC. 167. Section 2660 of the Business and Professions Code is amended to read:

2660. The Division of Allied Health Professions may, after the conduct of appropriate proceedings by the examining committee under the Administrative Procedure Act, suspend for not more than 12 months or revoke any license, certificate, or approval issued under this chapter for any of the following causes:

(a) Advertising in violation of Section 17500 of the Business and Professions Code.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his or her practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) The aiding or abetting of any person to violate the provisions of this chapter or any regulations duly adopted under this chapter.

(k) The aiding or abetting of any person to engage in the unlawful

practice of physical therapy.

SEC. 168. Section 2661 of the Business and Professions Code is amended to read:

2661. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The Division of Allied Health Professions may, upon the recommendation and direction of the examining committee, order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 169. Section 2672 of the Business and Professions Code is amended to read:

2672. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the Division of Allied Health Professions or the examining committee or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7, Part 2, Code of Civil Procedure, except that no undertaking shall be required in any action commenced by the board or the examining committee.

SEC. 171. Section 2717 of the Business and Professions Code is repealed.

SEC. 172. Section 2725 of the Business and Professions Code is amended to read:

2725. In amending this section at the 1973–74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973–74 session to provide clear legal authority for functions and procedures which have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems which provide for collaboration between physicians and registered nurses. Such organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

The practice of nursing within the meaning of this chapter means those functions helping people cope with difficulties in daily living which are associated with their actual or potential health or illness problems or the treatment thereof which require a substantial amount of scientific knowledge or technical skill, and includes all of the following:

(a) Direct and indirect patient care services that insure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures.

(b) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen prescribed by a physician, dentist, or podiatrist.

(c) The performance, according to standardized procedures, of basic health care, testing, and prevention procedures, including, but not limited to, skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries.

(d) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (1) determination of whether such signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics; and (2) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures.

"Standardized procedures", as used in this section, means either of the following:

(1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code through collaboration among administrators and health professionals including physicians and nurses;

(2) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system which is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. Such policies and protocols shall be subject to any guidelines for standardized procedures which the Division of Allied Health Professions of the Board of Medical Quality Assurance and the Board of Registered Nursing may jointly promulgate; and if promulgated shall be administered by the Board of Registered Nursing.

Nothing in this section shall be construed to require approval of standardized procedures by the Division of Allied Health Professions of the Board of Medical Quality Assurance or the Board of Registered Nursing.

SEC. 172.5. Section 2733 of the Business and Professions Code is amended to read:

2733. (a) Upon approval of an application filed pursuant to

subdivision (b) of Section 2732.1 and upon the payment of the fee prescribed by such section, the board may issue a temporary license to practice professional nursing for a period of six months from the date of issuance.

(b) Upon written application, the board may reissue a temporary license to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing his application for or the minimum requirements for such regular renewable license, but the board may not reissue a temporary license more than twice to any one person.

SEC. 173. Section 2736 of the Business and Professions Code is amended to read:

2736. (a) An applicant for licensure as a registered nurse shall comply with each of the following:

(1) Have completed such general preliminary education requirements as shall be determined by the board.

(2) Have successfully completed the courses of instruction prescribed by the board for licensure, in a program in this state accredited by the board for training registered nurses, or have successfully completed courses of instruction in a school of nursing outside of this state which, in the opinion of the board, are equivalent to the minimum requirements of the board for licensure established for an accredited program in this state.

(3) Not be subject to denial of licensure under Section 480.

(b) An applicant who has received his or her training from a school of nursing in a country outside the United States and who has complied with the provisions of subdivision (a), or has completed training equivalent to that required by subdivision (a), shall qualify for licensure by successfully passing the examination prescribed by the board.

SEC. 173.5. Section 2736.5 of the Business and Professions Code is amended to read:

2736.5. (a) Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical service technician—independent duty, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his education and experience would give reasonable assurance of competence to practice as a registard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education and experience of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education and experience alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education and experience plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the armed forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

SEC. 174. Section 2746.3 of the Business and Professions Code is amended to read:

2746.3. Midwife's certificates issued by the Board of Medical Quality Assurance of the State of California prior to the effective date of this article shall be renewable only by such board.

SEC. 175. Section 2746.4 of the Business and Professions Code is amended to read:

2746.4. Nothing in this article shall be construed to prevent the practice of midwifery by a person possessing a midwife's certificate issued by the Board of Medical Quality Assurance of the State of California on the effective date of this article.

SEC. 176. Section 2746.6 of the Business and Professions Code is amended to read:

2746.6. The board may take disciplinary action against a person possessing a certificate as a nurse-midwife or:

(a) Unprofessional conduct, which includes but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out the usual functions of a nurse-midwife.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500.

(b) Procuring his certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a crime substantially related to the

qualifications, functions and duties of a nurse-midwife.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license or a certificate.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his license or certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13 (commencing with Section 2360) of Chapter 5 of Division 2.

(j) Commission of any act coming within the scope of Section 2762.

SEC. 177. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a licensed nurse or an applicant for a license for:

(a) Unprofessional conduct, which includes but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500 of this code.

(b) Procuring his certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a crime substantially related to the qualifications, functions and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of this code.

(j) Holding oneself out to the public or to any practitioner of the

healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) of this chapter.

SEC. 178. Section 2762 of the Business and Professions Code is amended to read:

2762. In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or furnish or administer to another, any narcotic as defined in Division 10 of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(b) Use any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself, any other person, or the public or to the extent that such use impairs his ability to conduct with safety to the public the practice authorized by his license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

SEC. 179. Section 2765 of the Business and Professions Code is amended to read:

2765. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence,

irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 180. Section 2815 of the Business and Professions Code is amended to read:

2815. Subject to the provisions of Section 128, as amended by Chapter 863 of the 1973 Statutes, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a regular renewable license shall be thirty-five dollars ($35).

(b) The fee to be paid for approval of a continuing education program shall be fixed by the board at not more than twenty-five dollars ($25).

(c) The biennial fee to be paid upon the filing of an application for renewal of the regular renewable license shall be not more than sixteen dollars ($16).

(d) The fee to be paid upon the filing of an application for the examination taken in lieu of a continuing education program shall be fixed by the board to compensate for the cost of preparation and administration of the examination, but in no case shall exceed fifty dollars ($50).

(e) The penalty fee for failure to renew a regular renewable license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not more than twenty-five dollars ($25).

(f) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be three dollars ($3).

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

SEC. 181. Section 2815.5 of the Business and Professions Code is amended to read:

2815.5. The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse-midwives is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not more than fifteen dollars ($15).

(b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at no more than fifteen dollars ($15).

(c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but no more than twenty-five dollars ($25).

SEC. 182. Section 2830 of the Business and Professions Code is repealed.

SEC. 183. Section 2843 of the Business and Professions Code is amended to read:

2843. Members of the board shall be appointed by the Governor for a term of four years. Vacancies occurring shall be filled by appointment for the unexpired term.

Appointments to such office shall be for a term of four years expiring on June 1st.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the membership of the board.

SEC. 184. Section 2856 of the Business and Professions Code is repealed.

SEC. 185. Section 2866 of the Business and Professions Code is amended to read:

2866. An applicant for a licensed vocational nurse license shall comply with each of the following:

(a) Be at least 17 years of age.

(b) Have successfully completed at least an approved course of study through the 10th grade or the equivalent thereof as specified by the board.

(c) Have successfully completed the prescribed course of study in an accredited school of vocational nursing or have graduated from a school which, in the opinion of the board, maintains and gives a course which is equivalent to the minimum requirements for an accredited school of vocational nursing in this state.

(d) Not be subject to denial of licensure under Section 480.

SEC. 186. Section 2871 of the Business and Professions Code is amended to read:

2871. Any applicant who fails to pass his first examination may take a second examination upon payment of the fee required by this chapter.

SEC. 187. Section 2878 of the Business and Professions Code is amended to read:

2878. The board may suspend or revoke a license issued under this chapter for any of the following:

(a) Unprofessional conduct, which includes but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of this code, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500 of this code.

(b) Procuring a certificate by fraud, misrepresentation, or mistake;

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion;

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any

provision or term of this chapter;

(e) Making or giving any false statement or information in connection with the application for issuance of a license;

(f) Conviction of a crime substantially related to the qualifications, functions and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence thereof;

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license;

(h) Impersonating another licensed vocational nurse or a registered nurse, or permitting or allowing another person to use his certificate for the purpose of nursing the sick or afflicted;

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13 (commencing with Section 2360) of Chapter 5 of Division 2.

SEC. 188. Section 2878.6 of the Business and Professions Code is amended to read:

2878.6. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed vocational nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 189. Section 2881 of the Business and Professions Code is amended to read:

2881. An accredited school of vocational nursing is one which has been approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, gives the course of instruction in vocational nursing approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, whether the same be established by the State Board of Education, other educational institutions, or other public or private agencies or institutions, covering 12 months, and is affiliated or conducted in connection with one or more hospitals.

SEC. 190. Section 2890 of the Business and Professions Code is amended to read:

2890. The Vocational Nurse and Psychiatric Technician Examiners Fund is hereby created in the State Treasury.

SEC. 191. Section 2892.4 of the Business and Professions Code is amended to read:

2892.4. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated

thereafter, but the holder of the license may apply for and obtain a new license if:

(a) He is not subject to denial of licensure under Section 480.

(b) He pays all of the fees that would be required of him if he were then applying for the license for the first time, and

(c) He takes and passes the examination which would be required of him if he were then applying for the license for the first time. No examination shall be required, however, if the expired license was issued without an examination, and the examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to engage in the practice of vocational nursing.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 192. Section 2892.5 of the Business and Professions Code, as amended by Section 2 of Chapter 1396 of the Statutes of 1976, is amended to read:

2892.5. (a) Each person renewing his license under the provisions of this chapter shall submit proof satisfactory to the board that, during the preceding two-year period, he has informed himself of developments in the vocational nursing field or in any special area of vocational nurse practice, occurring since the issuance of his certificate, or the last renewal thereof, whichever last occurred, either by pursuing a course or courses of continuing education approved by the board in the vocational nursing field or relevant to the practice of such licensee, and approved by the board; or by other means deemed equivalent by the board. In lieu of submitting such proof, the license holder, if he so desires, may take and successfully complete an examination given by the board, designed to test his knowledge of developments occurring in the vocational nursing field since the issuance of his license, or the last renewal thereof, whichever last occurred.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conference workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) This section shall not apply to licensees during the first two years immediately following their graduation from vocational nursing school.

This section shall become operative on July 1, 1980.

SEC. 193. Section 2896.7 of the Business and Professions Code is amended to read:

2896.7. Assistance under this article shall only be granted to a student who otherwise qualifies under this article and who enrolls in an educational institution with policies satisfactory to the board regarding the acceptance of transfer credits from other educational institutions, and pursues a program of study to achieve one of the following goals:

(a) For persons who are employed as unlicensed aides or other assistants to nurses, participating in a study program, which is approved by the appropriate state licensing agency, that leads to a licensure as a vocational nurse or registered nurse.

(b) For persons who are licensed by the state as vocational nurses, participating in a study program, which is approved by the Board of Registered Nursing, that leads to a licensure as a registered nurse.

SEC. 194. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this act expressly otherwise provided:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, and which license is in force and has not been suspended or revoked.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance. "Committee" means the Psychology Examining Committee.

(c) A person represents himself to be a psychologist when he holds himself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," "psychoanalyst" or when he holds himself out to be trained, experienced or an expert in the field of psychology.

(d) "Accredited," as used herein with reference to academic institutions, means accredited under the provisions of paragraph (1) of subdivision (a) of Section 94310 of the Education Code.

(e) "Approved," as used herein with reference to academic institutions, means approved under the provisions of paragraph (2) of subdivision (a) of Section 94310 of the Education Code.

SEC. 195. Section 2906 of the Business and Professions Code is repealed.

SEC. 196. Section 2912 of the Business and Professions Code is amended to read:

2912. Nothing in this chapter shall be construed to restrict or prevent a person who is licensed or certified as a psychologist in another state or territory of the United States or in a foreign country from offering psychological services in this state for a period not to exceed 30 days in any calendar year.

SEC. 197. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the Board of

Psychiatry and Neurology of the American Medical Association, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, or by a psychological corporation registered under Section 2995.2, to perform limited psychological functions provided that:

(a) Such person is termed a "psychological assistant."

(b) Such person has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university or college.

(c) Such person is at all times under the immediate supervision, as defined in regulations published by the Division of Allied Health Professions upon the recommendation of the Psychology Examining Committee, or a licensed psychologist, or board-certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he performs are consistent with his training and experience and be responsible for his obedience to the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, or psychological corporation, has registered the psychological assistant with the committee. Such registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ or supervise more than three such psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one such psychological assistant at any given time. No contract clinic or psychological corporation may register, employ, or provide supervision for more than three psychological assistants for each designated full-time staff psychologist who is qualified and supervises such psychological assistants, and in no case shall such contract clinic or psychological corporation employ more than 10 such assistants at any one time. No contract clinic may register, employ or provide supervision for more than one psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises such psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise except as an employee of a licensed psychologist, licensed physician, contract clinic, or psychological corporation that specializes in psychology.

(e) Such psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 198. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant shall comply with all of the following requirements:

(a) Be at least 18 years of age.

(b) Not be subject to denial of licensure under Section 480.

(c) Possess an earned doctorate degree (1) in psychology, (2) in education with the field of specialization in counseling psychology or educational psychology, or (3) in educational psychology or possess an earned doctorate degree deemed equivalent by the committee in regulations duly adopted under this chapter. Such degree or training shall be obtained from the University of California, Stanford University, the University of Southern California, or from an accredited or approved college or university or any other educational institution approved by the committee as offering a comparable program in regulations duly adopted under this chapter.

No educational institution shall be denied recognition as an accredited or approved academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this act or in the administration of this act shall require the registration with the committee by educational institutions of their departments of psychology or their doctoral programs in psychology.

(d) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist or such suitable alternative supervision as determined by the committee in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology.

SEC. 199. Section 2920 of the Business and Professions Code is amended to read:

2920. The Psychology Examining Committee of the Board of Medical Quality Assurance of the Department of Consumer Affairs shall administer the provisions of this chapter. The committee shall consist of eight members appointed by the Governor, three of whom shall be public members.

SEC. 200. Section 2927 of the Business and Professions Code is repealed.

SEC. 201. Section 2934 of the Business and Professions Code is repealed.

SEC. 202. Section 2949 of the Business and Professions Code is amended and renumbered to read:

2987. The amount of the fees prescribed by this chapter shall be determined by the committee as follows:

(a) The application fee for a psychologist shall not be more than twenty-five dollars ($25).

(b) The examination fee for a psychologist shall not be more than seventy-five dollars ($75).

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which

license is issued.

(d) The biennial renewal fee for a psychologist shall not be more than seventy-five dollars ($75).

(e) The delinquency fee for a psychology license shall be one-half of the biennial renewal fee, but in no case shall exceed twenty-five dollars ($25).

(f) The application fee for registration of a psychological assistant shall not be more than fifteen dollars ($15).

(g) The annual renewal fee for registration of a psychological assistant shall not be more than twenty-five dollars ($25).

(h) The delinquency fee for annual renewal of the registration of a psychological assistant shall be one-half of the annual renewal fee, but not more than twenty-five dollars ($25).

SEC. 203. Section 2950 of the Business and Professions Code is amended and renumbered to read:

2988. The fees in this article shall be fixed by the committee and shall be set forth with the regulations which are duly adopted under this chapter.

SEC. 204. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for, or the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a license for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a licensed psychologist.

(b) Use of any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a psychologist with safety to the public.

(c) Impersonating another person holding a psychology license or allowing another person to use his license.

(d) Using fraud or deception in applying for a license or in passing the examination provided for in this chapter.

(e) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(f) Violating Section 17500.

(g) Willful, unauthorized communication of information received in professional confidence.

(h) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(i) Being grossly negligent in the practice of his profession.

(j) Willfully violating any of the provisions of this chpater or regulations duly adopted thereunder.

(k) The clearly excessive prescribing or administering of treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities or the use of treatment techniques which are

detrimental to the patient as determined by the customary practice and standards of the local community of licensees.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

SEC. 205. Section 2963 of the Business and Professions Code is amended to read:

2963. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed psychologist is deemed to be a conviction within the meaning of this article. At the direction of the committee, the board shall order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the impostion of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 206. Section 2971 of the Business and Professions Code is amended to read:

2971. Whenever any person other than a licensed psychologist has engaged in any act or practice which constitutes an offense against this chapter, the superior court of any county, on application of the Division of Allied Health Professions, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7, Part 2 of the Code of Civil Procedure provided that no undertaking shall be required in any action commenced by the division. The division may commence action in the superior court under the provisions of this section on its own motion, or on the written request of the committee.

SEC. 207. Section 2980 of the Business and Professions Code is amended to read:

2980. The board shall report to the State Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and at the time shall pay the entire amount thereof into the Contingent Fund of the Board of Medical Quality Assurance of the State of California.

SEC. 208. Section 2981 of the Business and Professions Code is amended to read:

2981. The money in the Contingent Fund of the Board of Medical Quality Assurance of the State of California necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

SEC. 209. Section 2984 of the Business and Professions Code is amended to read:

2984. Except as provided in Section 2985, a license which has

expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2982 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

The provisions of this section govern the renewal, and the fees payable therefor, of licenses which expired under the law in effect before October 1, 1967, as well as licenses which expire on October 1, 1967, or thereafter. A license which was forfeited or suspended for failure to renew under the law in effect before October 1, 1967, shall be considered to have expired on the date that it became forfeited or suspended.

SEC. 210. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation which is registered with the Psychology Examining Committee of the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California and has a currently effective certificate of registration from such committee pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and this article. Subject to all applicable statutes, rules, and regulations, such psychological corporation is entitled to practice psychology. The governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Psychology Examining Committee of the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California. As used in this article, the "committee" is the Psychology Examining Committee of the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

SEC. 211. Section 3011 of the Business and Professions Code is amended to read:

3011. Members of the board, except the public members, shall be appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.

No person, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the faculty of or of the board of trustees of any school of

optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.

No person, including the public members, shall serve as a member of the board for more than two consecutive terms.

SEC. 212. Section 3013 of the Business and Professions Code is amended to read:

3013. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The Governor shall appoint the professional member provided for at the 1976 portion of the 1975–76 session of the Legislature for a term expiring June 1, 1978.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature for terms expiring on June 1, 1978 and June 1, 1981.

Vacancies occurring shall be filled by appointment for the unexpired term.

SEC. 213. Section 3021 of the Business and Professions Code is amended to read:

3021. The board may keep a register of optometrists which shall contain the names and addresses of all persons to whom certificates of registration have been issued in the State of California. It shall also contain the date of the issuance of each certificate and the place or places of business in which each optometrist is engaged and in addition, all the renewals, revocations and suspensions of certificates.

In each odd-numbered year the board may print and circulate to all optometrists in this state a yearbook containing their names and addresses.

SEC. 214. Section 3028 of the Business and Professions Code is repealed.

SEC. 215. Section 3044 of the Business and Professions Code is amended to read:

3044. Any person over the age of 18 years desiring to engage in the practice of optometry in this state may file an application for examination before the board.

The application shall be accompanied by the fee required by this chapter and shall be filed with the board at least 30 days prior to the day of any meeting at which an examination is to be held.

An application for examination may be denied on any of the grounds listed in Section 480. The proceedings under this section shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 216. Section 3054 of the Business and Professions Code is amended to read:

3054. No applicant shall be passed by the board who fails to obtain a grade of 75 percent, as determined by the board, in every section or test of the examination in which he is required to be examined as

provided in this chapter and in rules and regulations promulgated by the board. In case any applicant fails to pass any examination, he shall be examined in the next or any succeeding examination held during the next five years only in any sections or tests in which he failed to obtain a grade of 85 percent.

SEC. 217. Section 3057.5 of the Business and Professions Code is amended to read:

3057.5. Notwithstanding any other provision of this chapter, the board shall permit a person who meets all of the following requirements to take the examination for a certificate of registration as an optometrist:

(a) Is over the age of 21 years.

(b) Is not subject to denial of a certificate under Section 480.

(c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

Nothing contained in this section shall be construed to prohibit the board from refusing to permit a person meeting the above requirements to take such examination if, in the opinion of the board, the course of instruction at the institution issuing him the degree of doctor of optometry was not reasonably equivalent to that required of applicants for the examination who have graduated from a college or university located in the United States.

SEC. 218. Section 3094 of the Business and Professions Code is amended to read:

3094. The conviction of a crime substantially related to the qualifications, functions and duties of an optometrist constitutes a cause to revoke or suspend a certificate of registration. The record of conviction or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, is conclusive evidence of the conviction.

SEC. 219. Section 3105 of the Business and Professions Code is amended to read:

3105. Habitual intemperance constitutes unprofessional conduct.

SEC. 220. Section 3107 of the Business and Professions Code is amended to read:

3107. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of an optometrist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 221. Section 3147 of the Business and Professions Code is amended to read:

3147. Except as otherwise provided by Section 114 of this code, an expired certificate may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of 150 percent of the renewal fee, but not more than twenty-five dollars ($25) in excess of the renewal fee. If the certificate is renewed more than 30 days after its expiration, the certificate holder as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the accrued renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 3146 which next occurs after the effective date of the renewal, when it shall expire if it is not renewed.

A certificate which, under the law in effect before October 1, 1961, became suspended because of the failure of its holder to renew it, shall, for the purposes of this article, be considered to have expired on the date that it became suspended.

SEC. 222. Section 3147.5 of the Business and Professions Code is amended to read:

3147.5. A certificate which has been suspended is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the holder of the certificate, while it remains suspended and until it is reinstated, to engage in the practice of optometry, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

A certificate which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the holder of the certificate, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to 150 percent of the renewal fee but not more than twenty-five dollars ($25) in excess of the renewal fee.

SEC. 223 Section 3147.6 of the Business and Professions Code is amended to read:

3147.6. Except as otherwise provided by Section 114 of this code, a certificate which is not renewed within five years after its expiration may be restored, thereafter if no fact, circumstance, or condition exists which, if the certificate were restored, would justify its revocation or suspension provided:

(a) The holder of the expired certificate is not subject to denial of a certificate under Section 480,

(b) The holder of the expired certificate applies in writing for its restoration on a form prescribed by the board,

(c) He pays such fee or fees as would be required of him if he were then applying for a certificate of registration for the first time and had not previously taken the examination for such a certificate,

(d) He takes and satisfactorily passes the regular examination of applicants conducted by the board, and

(e) After having taken and satisfactorily passed the regular examination of applicants for certificates of registration, he pays a restoration fee equal to the renewal fee in effect on the last regular renewal date for certificates of registration.

SEC. 224. Section 3148 of the Business and Professions Code is amended to read:

3148. From each fee for the annual renewal of a certificate of registration there shall be paid the sum of eight dollars ($8) by the Director of Consumer Affairs to the University of California.

This sum shall be used at and by the University of California solely for the advancement of optometrical research and the maintenance and support of the department at the university in which the science of optometry is taught.

The balance of each renewal fee shall be paid into the Optometry Fund.

SEC. 224.5. Section 3321 of the Business and Professions Code is amended to read:

3321. Each member of the committee, except the members first appointed, shall hold office for a term of four years. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term. Each member of the committee shall be eligible for reappointment in the discretion of the Governor, provided that reappointed hearing aid dispenser members shall, at the time of the reappointment, hold a valid license under this chapter. No person may serve as a member of the committee more than two consecutive terms.

SEC. 225. Section 3353 of the Business and Professions Code is amended to read:

3353. The committee shall ascertain that the applicant satisfies all of the following requirements:

(a) A written examination compiled at the discretion of the committee covering all of the following areas as they pertain to the fitting and selling of hearing aids:

(1) Basic physics of sound.

(2) The anatomy and physiology of the ear.

(3) The function of hearing aids.

(4) Knowledge and understanding of the grounds for revocation, suspension, or probation of a license as outlined in Article 4 (commencing with Section 3400) of this chapter.

(5) Knowledge and understanding of criminal offenses as outlined in Article 5 (commencing with Section 3420) of this chapter.

(b) A demonstration of proficiency compiled at the discretion of the committee, including but not limited to the following:

(1) The procedures and use of equipment established by the committee for the fitting and selling of hearing aids.

(2) Taking earmold impressions.

(c) Evidence of knowledge regarding the medical and rehabilitation facilities for children and adults that are available in the area served.

(d) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 225.5. Section 3355 of the Business and Professions Code is repealed.

SEC. 226. Section 3401 of the Business and Professions Code is amended to read:

3401. The board may suspend or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Gross incompetency which includes, but is not limited to the improper or unnecessary fitting of a hearing aid.

(b) Conviction of any crime substantially related to the qualifications, functions and duties of a hearing aid dispenser.

(c) Obtaining a license by fraud or deceit.

(d) Use of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, as part of the firm name under which the licensee fits and sells hearing aids, unless authorized by law.

(e) Fraud or misrepresentation in the fitting and selling of a hearing aid.

(f) The employment, to perform any act covered by the provisions of this chapter, of any person whose license has been suspended, or who does not possess a valid license issued under this chapter.

(g) Except as prohibited in Section 651, the use or causing the use, of any advertising or promotional literature in such manner as to have the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(h) Habitual intemperance.

(i) The licensee's permitting another to use his license for any purpose.

(j) Violation of any provision of this chapter.

(k) Any cause which would be grounds for denial of an application for a license.

SEC. 227. Section 3403 of the Business and Professions Code is amended to read:

3403. A plea or verdict of guilty or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions and duties of a hearing aid dispenser is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, impose probationary conditions on a licensee, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section

1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 227.5. Section 3454 of the Business and Professions Code is amended to read:

3454. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the expired license may apply for and obtain a new license if:

(a) He has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He pays all the fees which would be required of him if he were then applying for a license for the first time; and

(c) He takes and passes the examination which would be required of him if he were then applying for a license for the first time, or otherwise establishes to the satisfaction of the committee that he is qualified to engage in the practice of fitting and selling hearing aids. The committee may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 228. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician's Assistant Examining Committee of the Board of Medical Quality Assurance. The committee shall consist of nine members appointed by the Governor.

SEC. 229. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the board, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the board for authorization under which such director may grant approval for emergency care physicians on the staff of such hospital to supervise emergency care physician assistants.

(b) Such application shall encompass all supervising physicians employed in such service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than two physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician's assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2.

Any violation of this section shall be grounds for suspension of the approval of the director and hospital from further participation under this chapter.

SEC. 231. Section 3902 of the Business and Professions Code is amended to read:

3902. "Nursing home" means any institution, facility, place, building or agency, or portion thereof, defined and licensed as a skilled nursing facility or intermediate care facility in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 232. Section 3906 of the Business and Professions Code is amended to read:

3906. A person who serves as an administrator of a nursing home which is exempt from licensing pursuant to subdivision (c) of Section 1270 of the Health and Safety Code, shall be exempt from the provisions of this chapter.

SEC. 233. Section 3914 of the Business and Professions Code is amended to read:

3914. The terms of members shall be three years. Members of the board may be removed by the Governor for cause.

Each member shall hold office until the appointment and qualification of his successor, or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring in membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

The Governor shall appoint the additional public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of the member who is a licensee of the board.

SEC. 234. Section 3916 of the Business and Professions Code is amended to read:

3916. In conformity with the requirements of Section 1908(c) of the Social Security Act, the board shall have all of the following duties:

(a) To develop, impose and enforce standards that shall be met by individuals in order to receive a license as a nursing home administrator, such standards shall be designed to ensure that nursing home administrators shall be individuals who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.

(b) To develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards.

(c) To issue licenses to individuals determined, after the application of such techniques, to meet such standards, and to revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards.

(d) To establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such

standards.

(e) To receive, investigate and take appropriate action with respect to any charge or complaint filed with the board to the effect that an individual licensed as a nursing home administrator has failed to comply with the requirements of such standards.

(f) To conduct a continuing study of the administration of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of such administrators, and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(g) To receive and administer all funds and grants as are made available to the board in order to carry out the purposes of this chapter.

(h) To encourage qualified educational institutions and other qualified organizations to establish, provide and conduct such training and instruction programs and courses as will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards set by the board, for licensed nursing home administrators, and as will enable licensed nursing home administrators to meet the continuing education requirements for the reregistering of their license.

(i) To consult with and seek the recommendations of the appropriate statewide professional societies, associations, institutional organizations and educational institutions in the development of educational programs.

(j) To give due consideration to the recommendations of the National Advisory Council on Nursing Home Administration, pursuant to the provisions of subdivision (f) of Section 1908 of Title XIX of the Social Security Act (subd. (f), Sec. 1396g, Title 42, U.S.C.).

SEC. 235. Section 3918 of the Business and Professions Code is amended to read:

3918. The members of the board shall receive a per diem and expenses pursuant to the provisions of Section 103.

SEC. 236. Section 4002 of the Business and Professions Code is amended to read:

4002. Members of the board shall be appointed for a term of four years. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public member provided for at the 1976 portion of the 1975–76 session of the Legislature on or before March 1, 1977.

SEC. 237. Section 4003 of the Business and Professions Code is amended to read:

4003. No member of the board shall teach pharmacy in any of its

branches, unless it be as a teacher in a public capacity and in a college of pharmacy.

No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member of the board when this limitation takes effect.

SEC. 238. Section 4007 of the Business and Professions Code is amended to read:

4007. Five members of the board constitute a quorum. The board shall hold a meeting at least once in every four months. The principal office of the board shall be located in Sacramento.

SEC. 239. Section 4033 of the Business and Professions Code is amended to read:

4033. "Physicians," "dentists," "pharmacists," "podiatrists," "veterinarians," "veterinary surgeons," "registered nurses," and "physician's assistants" are persons authorized by a currently valid and unrevoked license to practice their respective professions in this state. "Physicians" means and includes any person holding a valid and unrevoked physician's and surgeon's certificate or certificate to practice medicine and surgery, issued by the Board of Medical Quality Assurance or the Board of Osteopathic Examiners of this state, and includes an unlicensed person lawfully practicing medicine pursuant to Section 2147.5, when acting within the scope of that section.

SEC. 240. Section 4040 of the Business and Professions Code is repealed.

SEC. 241. Section 4047.7 of the Business and Professions Code is amended to read:

4047.7. (a) The State Director of Health Services shall establish by regulation a formulary of generic drug types and drug products which the State Director of Health Services determines demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted under Section 4047.6, would pose a threat to the health and safety of patients receiving prescription medication.

(b) The drug formulary established pursuant to this section shall include generic drug types and manufactured brand drug products, including, where applicable, drug products differentiated by dosage form or strength. In compiling the generic drug types and drug products for inclusion on the formulary, the State Director of Health Services may rely on drug product research, testing, information, and formularies compiled by other states, the United States Department of Health, Education and Welfare, and any other source which the State Director of Health Services deems reliable.

(c) Regulations establishing the drug formulary shall be promulgated within 120 days of the effective date of this section. The formulary shall be added to or deleted from as the State Director of Health Services deems appropriate. Regulations shall be adopted in accordance with Article 1 (commencing with Section 11371) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. Any person who requests that the State Director of Health Services

make any inclusion, addition or deletion, of a generic drug type or drug product to the formulary shall have the burden of proof to show cause why such inclusion, addition, or deletion, should be made by the State Director of Health Services.

(d) Upon adoption of the formulary, and upon each addition, deletion or modification to the formulary, the State Director of Health Services shall mail a copy to each pharmacist licensed by the State Board of Pharmacy and with each physician and surgeon licensed to practice in the state with the State Board of Medical Quality Assurance and each person licensed by the Board of Osteopathic Examiners. No pharmacist shall dispense a generically equivalent drug product pursuant to Section 4047.6 if the drug product and its generic drug type is included in the formulary.

SEC. 242. Section 4051 of the Business and Professions Code is amended to read:

4051. This chapter does not apply to or interfere with anyone who holds a physician's and surgeon's certificate or certificate to practice podiatry and who is duly registered as such by the Board of Medical Quality Assurance or the Board of Osteopathic Examiners of this state, and who furnishes his own patients with such remedies as are necessary in the treatment of the condition for which he attends such patient if he acts as their physician and is employed by them as such and if he does not keep a pharmacy, open shop or drugstore, advertised or otherwise, for the retailing of drugs or poisons, and provided such person keeps accurate records of drugs furnished and such drugs may not be furnished by a nurse or attendant.

SEC. 243. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Except as otherwise provided in Articles 7, 8, and 9 of this chapter, this chapter shall not apply to any packaged, bottled or nonbulk chemicals or drugs, when identified by and sold under a trademark, trade name or other trade symbol privately owned or registered in the United States Patent Office or as provided by the laws of the State of California, and labeled with directions for use and with the name and address of the manufacturer or distributor, if such chemical or drug meets with the requirements of the pure food and drug laws of the United States of America and of the State of California.

Except as provided in Section 4057, this section does not exempt the sale of any medicinal drug or medicinal preparation named and listed in the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States or the National Formulary when sold under such name alone or when sold under such name used jointly with a trade name, brand or trademark, registered or not.

(b) This chapter does not apply to the sale of any intravenous solution of 150 cubic centimeters or over; cold sterilizing solution, sterilized sutures; hypodermic needles and syringes; sterile distilled water U.S.P.; sterile normal saline solution; laboratory chemicals and reagents, stains and dyes; chemicals and drugs used as indicators in

diagnostic and X-ray examinations, soaps, detergents and tincture of green soap U.S.P.; medicinal gases, ether, chloroform and ethyl chloride; sulfa creams, ointments, and jellies used for introduction into the vaginal tract; and medicated dressings; where such sale is made to any of the following:

1. A physician, dentist, podiatrist, veterinarian, pharmacist, medical technician or medical technologist holding a currently valid and unrevoked license to practice his profession; and a chiropractor acting within the scope of his license.

2. A clinic, hospital, institution or establishment holding a currently valid and unrevoked license or permit under Division 2 (commencing with Section 1200) of the Health and Safety Code, or Chapter 2 (commencing with Section 3300) of Division 3, or Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code.

3. An exporter for export outside the United States where such drugs, poisons or chemicals are actually shipped outside of the United States.

(c) This section does not exempt the provisions of Section 4050 of this chapter requiring that any precription of a medical practitioner shall be compounded or dispensed by a registered pharmacist whether the ingredient or ingredients of such a prescription be trademarked or not.

SEC. 244. Section 4058 of the Business and Professions Code is amended to read:

4058. Grocers and dealers generally may sell all economic poisons which are within the terms of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code, relating to economic poisons, and which are licensed and registered thereunder, sold in original sealed packages and labeled with the official poison labels, when prepared, packaged and sold in accordance with rules and regulations authorized by Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code, except the following: arsenate of lead, arsenate of calcium, paris green, london purple and hydrocyanic acid in original sealed packages of less than one pound, any economic poison containing more than two (2) percent strychnine or ten (10) percent elemental phosphorus, ant poisons containing more than 0.04 percent by weight of arsenic expressed in terms of metallic arsenic, corrosive sublimate and cyanide of potassium.

SEC. 245. Section 4089 of the Business and Professions Code is amended to read:

4089. Each applicant for the written and practical examination given by the board as specified in subdivision (d) of Section 4085 and each applicant for registration as a registered pharmacist shall not have committed acts or crimes constituting grounds for denial of registration under Section 480.

SEC. 246. Section 4098 of the Business and Professions Code is amended to read:

4098. There is under the jurisdiction of the State Board of Pharmacy a Committee for the Continuing Education of Pharmacists, consisting of six members appointed by the State Board of Pharmacy for a term of two years.

The membership shall be appointed with equal representation from the State Board of Pharmacy, the faculty of colleges of pharmacy in the State of California, and practicing pharmacists within the state. Such members shall receive the per diem and expenses provided for in Section 103.

SEC. 247. Section 4098.1 of the Business and Professions Code is repealed.

SEC. 247.5. Section 4099 of the Business and Professions Code is amended to read:

4099. The committee shall make recommendations to the board regarding the form, subject matter, and content of courses that shall be necessary for obtaining approval pursuant to the provisions of the article.

The courses shall be in the form of postgraduate studies, institutes, seminars, lectures, conferences, workshops, extension studies, correspondence courses and other similar methods of conveying continuing professional pharmaceutical education.

Such subject matter shall be pertinent to the socioeconomic and legal aspects of health care, the properties and actions of drugs and dosage forms and the etiology, and characteristics and therapeutics of the disease state.

The subject matter of such courses may include, but shall not be limited to, the following: pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, pharmacy jurisprudence, public health and communicable diseases, professional practice management, anatomy, istology and such other subject matter as represented in curricula of accredited colleges of pharmacy.

SEC. 248. Section 4176 of the Business and Professions Code is amended to read:

4176. When in the opinion of the board it is in the interest of the public health, it may further add or deduct compounds or preparations to Schedule "A," "B" or "C" after an open hearing following due notification of interested parties, which rules will be applicable to all persons alike.

Notice of the adoption of rules pursuant to this section shall be given to the public in such manner as the board deems necessary. No person shall be subject to prosecution for violating the rule until the board has given due public notice of its rule.

In addition to the public notice of the adoption of such rules, the board shall give written notice of the adoption of such rules within 30 days after the adoption thereof by sending written notice thereof to all drugstores licensed under this chapter.

No schedule adopted under the provisions of this article shall apply, except as specifically provided in this article, to any economic

poison as defined in Section 12753 of the Food and Agricultural Code.

SEC. 250. Section 4307 of the Business and Professions Code is amended to read:

4307. Every license issued or renewed under this article shall expire November 1st of each calendar year. The penalty for failure to pay the annual renewal fee may be fixed by the board at an amount not to exceed 50 percent of such renewal fee but not more than twenty-five dollars ($25).

SEC. 251. Section 4313 of the Business and Professions Code is amended to read:

4313. The board shall seize any prophylactic not conforming to the standards under this article.

SEC. 252. Section 4354 of the Business and Professions Code is amended to read:

4354. The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction is of an offense substantially related to the qualifications, functions and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensee under this chapter is deemed to be a conviction within the meaning of this section. The board may order the certificate, license, permit, registration or exemption suspended or revoked, or may decline to issue a certificate, license, permit, registration or exemption, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 252.5. Section 4358 of the Business and Professions Code is amended to read:

4358. The conviction of or cash compromise of a charge of violation of Chapter 13 of Title 21 of the United States Code regulating narcotics, or the conviction of a violation of the statutes of this state, regulating narcotics, or dangerous drugs, constitutes unprofessional conduct within the meaning of this chapter. The record of the conviction or compromise is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the certificate, license, permit, registration or exemption suspended or revoked, or may decline to issue a certificate, license, permit,

registration or exemption, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 253. Section 4410 of the Business and Professions Code is amended to read:

4410. Every registered pharmacist who desires to retain his registration on the books of the board shall, on or before October 31 of each odd-numbered year, pay to the executive secretary of the board the renewal fee, fixed by the board, within the limits prescribed by this chapter. In return for the payment of the renewal fee, a renewal certificate of registration shall be issued.

SEC. 254. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the following schedule:

(a) The fee for a permit to conduct a pharmacy shall be fixed by the board at an amount not to exceed fifty dollars ($50) for each pharmacy.

(b) The annual fee for renewal of the permit to conduct a pharmacy shall be fixed by the board at an amount not to exceed fifty dollars ($50) for each pharmacy.

(c) The annual fee for a permit for a general dealer in a rural district shall be fixed by the board at an amount not to exceed five dollars ($5).

(d) The fee for any applicant for registration shall be fixed by the board at an amount not to exceed seventy-five dollars ($75).

(e) The additional fee for the issuance of a certificate to any licentiate, who is found by the board on examination to be entitled to a certificate, shall be fixed by the board at an amount not to exceed twenty-five dollars ($25), except that, if the certificate is issued less than one year before the next succeeding regular renewal date, the fee shall not exceed twelve dollars and fifty cents ($12.50). The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(f) The fee for the reissuance of a certificate shall be fixed by the board at an amount not to exceed fifteen dollars ($15).

(g) Except as otherwise provided in this subdivision, the renewal fee for a registered pharmacist may be fixed by the board at an amount not to exceed fifty dollars ($50).

(h) The fee for a wholesaler shall be fixed by the board at an amount not to exceed two hundred dollars ($200).

(i) The fee for a hypodermic license and renewal shall be fixed by

the board at an amount not to exceed twenty-five dollars ($25).

(j) The penalty for failure to pay any renewal fee may be fixed by the board at an amount not to exceed 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(k) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, except as provided by subdivision (f), which has been lost or destroyed or which must be reissued because of a change in the information appearing thereon is five dollars ($5).

(*l*) The fee for an application for exemption under Section 4050.6 shall be fixed by the board at an amount not to exceed twenty-five dollars ($25). Such fee shall be paid at the time the application is filed and shall not be refunded. If, after investigation or examination of the person or persons upon the basis of whose qualifications the exemption is sought, the board finds that the applicant is entitled to the exemption, it shall issue to him, upon payment of an additional fee fixed by the board at an amount not to exceed twenty-five dollars ($25), a certificate of exemption naming the person or persons upon the basis of whose qualifications the exemption is granted. Such certificate shall be renewed annually on or before the 31st day of December upon payment of a renewal fee fixed by the board at an amount not to exceed twenty-five dollars ($25).

(m) The fee for registration under Section 4084.5 shall be fixed by the board at an amount not to exceed ten dollars ($10). The fee for annual renewal of such registration shall not exceed ten dollars ($10).

(n) The fee for an out-of-state drug distributor's license issued pursuant to Section 4084.6 shall be fixed by the board at an amount not to exceed the reasonable costs of the board for the issuance of such license, which in no event shall exceed two hundred dollars ($200). The fee for annual renewal of such license shall not exceed two hundred dollars ($200).

SEC. 255. Section 4506 of the Business and Professions Code is repealed.

SEC. 256. Section 4511 of the Business and Professions Code is amended to read:

4511. An applicant for a psychiatric technician's license shall have the following qualifications:

(a) Be at least 18 years of age.

(b) Have successfully completed an approved general education course of study through the 12th grade or the equivalent thereof as determined by the board.

(c) Have successfully completed (1) a prescribed course of study and training of at least 12 months in length in a school accredited by the board, which course of study and training shall combine the nursing knowledge and skills necessary for the care of any ill person and in addition those special skills necessary for the care of the mentally disabled or the developmentally disabled, or (2) a course of study and training which, together with previously acquired training or experience, is determined by a school accredited by the

board to be equivalent in academic credits to its regular program for psychiatric technician training, or (3) have completed a course of study and training which in the opinion of the board is equivalent to the minimum requirements of an accredited program for psychiatric technicians in the state. Clinical inpatient experience shall be an integral part of any such prescribed or equivalent course of study and training. Such experience shall be obtained in a state hospital, except where the board finds that such requirement is not feasible due either to the distance of a state hospital from the school, or the unavailability, as determined by the State Department of Health, of state hospital clinical training placements.

(d) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 257. Section 4521 of the Business and Professions Code is amended to read:

4521. The board may suspend or revoke a license issued under this chapter for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of this code, the record of conviction being conclusive evidence thereof.

(3) The use of advertising relating to psychiatric technician services which violates Section 17500 of this code.

(4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or furnish or administer to another, any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code.

(5) Use any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself, any other person, or the public or to the extent that such use impairs his ability to conduct with safety to the public the practice authorized by his license.

(6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5) of this subdivision, in which event the record of the conviction is conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(7) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5) of this subdivision, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(8) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in paragraph (4) of this subdivision.

(b) Procuring a certificate or license by fraud, misrepresentation or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter.

(e) Giving any false statement or information in connection with an application.

(f) Conviction of any offense substantially related to the qualifications, functions and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required by this chapter.

(h) Impersonating another practitioner, or permitting another person to use his certificate or license.

(i) The use of excessive force upon or the mistreatment or abuse of any patient.

(j) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13 (commencing with Section 2360) of Chapter 5 of Division 2.

SEC. 258. Section 4523 of the Business and Professions Code is amended to read:

4523. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a psychiatric technician is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked or may decline to issue a license, when the time for appeal has lapsed, or the judgment or conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 260. Section 4544 of the Business and Professions Code is amended to read:

4544. All licenses expire on December 31 of each year, if not renewed. To renew an unexpired license the holder thereof shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 261. Section 4545 of the Business and Professions Code is amended to read:

4545. Except as provided in Section 4545.2, a license which has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 4544 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A certificate which was forfeited for failure to renew under the law in effect before October 1, 1961, shall, for the purposes of this article, be considered to have expired on the date that it became forfeited.

SEC. 262. Section 4545.3 of the Business and Professions Code is amended to read:

4545.3. A certificate and the holder thereof are subject to this section in the same manner as are a license and the holder thereof.

A license which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the holder may apply for and obtain a new license if:

(a) No fact, circumstance, or condition exists which would justify denial of the license under Section 480.

(b) He pays all of the fees which would be required of him if he were then applying for a license for the first time, and

(c) He takes and passes the examination, if any, which would be required of him if he were then applying for the license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to perform the services described in Section 4502.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 263. Section 4548 of the Business and Professions Code is amended to read:

4548. The amounts of the fees payable pursuant to this chapter shall be fixed by the board according to the following schedule:

(a) The application fee at no more than ten dollars ($10) nor less than five dollars ($5).

(b) The renewal fee at no more than fifteen dollars ($15) nor less than two dollars ($2).

(c) The delinquency fee at 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

SEC. 264. Section 4801 of the Business and Professions Code is amended to read:

4801. Each member, except the public members, shall be a graduate of some veterinary college authorized by law to confer degrees, a bona fide resident of this state for a period of at least five years immediately preceding his appointment and shall have been actually engaged in the practice of his profession in this state during this period. The public members shall have been residents of this state for a period of at least five years last past before their appointment and shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600. At no time shall there be two members on the board from the same congressional district.

No person shall serve as a member of the board for more than two consecutive terms.

SEC. 265. Section 4802 of the Business and Professions Code is amended to read:

4802. The members of the board shall hold office for a term of four years. Each member shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. A member may be reappointed subject to the limitation contained in Section 4801.

Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur.

SEC. 266. Section 4810 of the Business and Professions Code is repealed.

SEC. 267. Section 4828 of the Business and Professions Code is amended to read:

4828. All veterinarians actually engaged and employed as such by the state, or a county, city, corporation, firm or individual are practicing veterinary medicine and shall secure a state license issued by the State Board of Veterinary Examiners; provided however, that veterinarians employed by the California Department of Food and Agriculture as full-time veterinary meat inspectors shall not be required to have a license so long as they do not practice any other branch of veterinary medicine. Notwithstanding the provisions of this section, a veterinarian employed to perform official veterinary services for the state, a county, city and county, or city, shall not be required to secure the state license herein required until 12 months after having entered the employment of such governmental agencies.

SEC. 268. Section 4830.5 of the Business and Professions Code is

amended to read:

4830.5. Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 597b of the Penal Code, it shall be the duty of such licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section.

SEC. 269. Section 4832 of the Business and Professions Code is amended to read:

4832. (a) There is hereby created within the jurisdiction of the board, an Animal Health Technician Examining Committee, hereinafter referred to as the examining committee.

(b) The examining committee shall consist of seven members appointed by the Governor. The examining committee shall consist of three veterinarians licensed to practice veterinary medicine in the State of California, one of whom shall be involved in educating animal health technicians, three public members and one member who shall be registered as an animal health technician in the State of California, who shall serve at the pleasure of the Governor. Appointments may be made from lists, if any, submitted by appropriate professional associations and societies.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975–76 session of the Legislature as a vacancy occurs in the office of the licensed veterinarian or a registered animal health technician.

(c) All members of the examining committee shall be citizens of the United States and residents of the State of California. All doctors of veterinary medicine who are appointed members of the examining committee, shall have been licensed to practice veterinary medicine, at least five years preceding their appointments.

(d) The members of the examining committee shall serve for a term of four years, except that the original examining committee appointments may be staggered to achieve rotational terms. No person may serve as a member of the committee for more than two consecutive terms.

(e) The first animal health technician appointed to the committee shall upon appointment become a registered animal health technician, provided such person meets the eligibility requirements to take the written and practical examination as established in Section 4841.5.

SEC. 270. Section 4837 of the Business and Professions Code is amended to read:

4837. The board may revoke or suspend the registration of an animal health technician in this state after notice and hearing for any cause provided in this article. The proceedings under this article shall be conducted in accordance with the provisions for

administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein. The board may revoke or suspend a certificate of registration for any of the following reasons:

(a) The employment of fraud, misrepresentation or deception in obtaining a registration.

(b) Conviction of a crime substantially related to the qualifications, functions and duties of an animal health technician in which case the record of such conviction will be conclusive evidence.

(c) Chronic inebriety or habitual use of drugs.

(d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(e) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

SEC. 271. Section 4841.5 of the Business and Professions Code is amended to read:

4841.5. To be eligible to take the written and practical examination for registration as an animal health technician, the applicant shall:

(a) Be at least 18 years of age.

(b) Furnish satisfactory evidence of graduation from a two-year curriculum in animal health technology, or the equivalent thereof as determined by the board, in a college or other institution approved by the board, except that in lieu of such graduation, a person who files his application within four years of the effective date of this section, may furnish satisfactory evidence that within the seven-year period between January 1, 1972, and January 1, 1979, he has received three years of equivalent practical experience under a licensed veterinarian who will attest by affidavit that such person has had such training.

SEC. 272. Section 4842 of the Business and Professions Code is amended to read:

4842. The board may deny an application to take a written and practical examination for registration as an animal health technician if the applicant has done any of the following:

(a) Committed any act which would be grounds for the suspension or revocation of registration under this chapter.

(b) While unregistered, committed or aided and abetted the commission of, any act for which a certificate of registration is required by this chapter.

(c) Knowingly made any false statement in the application.

(d) Been convicted of a crime substantially related to the qualifications, functions and duties of an animal health technician.

(e) Committed any act which resulted in a revocation by another state of his license, registration, or other procedure by virtue of

which one is licensed or allowed to practice animal health technology in that state.

SEC. 273. Section 4843.5 of the Business and Professions Code is amended to read:

4843.5. Except as otherwise provided in this article, an expired certificate of registration may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the certificate of registration is renewed more than 30 days after its expiration, the registrant, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last.

SEC. 274. Section 4844 of the Business and Professions Code is amended to read:

4844. A person who fails to renew his certificate of registration within five years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new certificate of registration if:

(a) He is not subject to denial of registration under Section 480.

(b) No fact, circumstance, or condition exists which, if the certificate of registration were issued, would justify its revocation or suspension.

(c) He takes and passes the examination, if any, which would be required of him if he were then applying for a certificate of registration for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to be a registered animal health technician.

(d) He pays all of the fees that would be required of him if he were applying for the certificate of registration for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a certificate of registration is issued without an examination pursuant to the provisions of this section.

SEC. 275. Section 4882 of the Business and Professions Code is amended to read:

4882. The board may revoke or suspend a certificate for any of the following causes:

(a) The employment of fraud, misrepresentation or deception in obtaining such license.

(b) Conviction of a crime substantially related to the qualifications, functions and duties of a veterinarian, in which case the record of such conviction shall be conclusive evidence thereof.

(c) Chronic inebriety or habitual use of drugs.

(d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(e) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(f) The revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory.

(g) Conviction of or cash compromise of a charge or violation of the Harrison Act, regulating narcotics, in which case the record of such conviction or compromise, as the case may be, shall be conclusive evidence.

(h) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(i) Employment of anyone but a veterinarian licensed in the State of California to demonstrate the use of biologics in the treatment of animals.

(j) False or misleading advertising having for its purpose or intent deception or fraud.

(k) Failure to, keep one's premises and all equipment therein in a clean and sanitary condition.

(*l*) Fraud, deception, or incompetence in the practice of veterinary medicine.

SEC. 276. Section 4883 of the Business and Professions Code is amended to read:

4883. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a veterinarian is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 277. Section 4900 of the Business and Professions Code is amended to read:

4900. Licenses expire at 12 p.m. on August 31 of each odd-numbered year if not renewed.

To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 278. Section 4901 of the Business and Professions Code is amended to read:

4901. Except as otherwise provided in this chapter, an expired license may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date If the license is renewed more than 30 days

after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 4900 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 279. Section 4901.1 of the Business and Professions Code is amended to read:

4901.1. A license which is suspended is subject to expiration, and shall be renewed as provided in this chapter, but such renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity in violation of the order or judgment by which it was suspended.

SEC. 280. Section 4902 of the Business and Professions Code is amended to read:

4902. A person who fails to renew his license within five years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if:

(a) He is not subject to denial of licensure under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for a license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to practice veterinary medicine, and

(c) He pays all of the fees that would be required of him if he were then applying for the license for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a license is issued without an examination pursuant to the provisions of this section.

SEC. 281. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of nine members appointed by the Governor, four of whom shall be certified public accountants, two of whom shall be public accountants, and three of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint the public member provided for at the 1976 portion of the 1975–76 session of the Legislature on or before March 1, 1977.

SEC. 283. Section 5070.7 of the Business and Professions Code is amended to read:

5070.7. A permit which is not renewed within five years following its expiration may not be renewed, restored, or reinstated thereafter, and the certificate of the holder of the permit shall be canceled immediately upon expiration of the five-year period.

A partnership whose certificate has been canceled by operation of this section may obtain a new certificate and permit only if it again meets the requirements set forth in this chapter relating to registration and pays the registration fee and initial permit fee.

A certified public accountant whose certificate is canceled by operation of this section may apply for and obtain a new certificate and permit if:

(a) He is not subject to denial of a certificate and permit under Section 480.

(b) He pays all of the fees that would be required of him if he were then applying for the certificate and permit for the first time, and

(c) He takes and passes the examination which would be required of him if he were then applying for the certificate for the first time. The examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to engage in practice as a certified public accountant.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination under this section.

SEC. 284. Section 5077 of the Business and Professions Code is repealed.

SEC. 285. Section 5081 of the Business and Professions Code is amended to read:

5081. An applicant for admission to the examination for a certified public accountant certificate shall, (a) not have committed acts or crimes constituting grounds for denial of a certificate under Section 480, (b) present satisfactory evidence that he has successfully completed a four-year day high school course, or the equivalent hours of courses in an evening high school, which included three years of English and two years of mathematics, or that he has the equivalent thereof as determined by a written examination and approved for that purpose by the Department of Education and administered by an agency approved for that purpose by the Department of Education, and (c) have one of the requirements specified in Section 5081.1.

SEC. 287. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080) of this chapter, or may censure the holder of any such permit or certificate for any one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation or suspension of a certificate or other authority to practice or refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant by any other state or foreign country.

(e) Violation of any of the provisions of Section 5120.

(f) Willful violation of a rule or regulation promulgated by the board under the authority granted under this chapter.

(g) Suspension or revocation of the right to practice before any governmental body or agency.

SEC. 289. Section 5514 of the Business and Professions Code is amended to read:

5514. The membership of the board shall be composed of nine members, three of whom shall be architects, one of whom shall be a building designer, and five of whom shall be public members.

The three architect members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least eight years at the time of appointment, one of whom shall be a resident and in practice in southern California and one of whom shall be a resident and in practice in northern or central California.

The building designer member of the board shall be selected from among building designers who have been engaged as principals in the business of building design for at least eight years in the state.

The public members of the board shall not be licentiates of the board.

The member of the board who is a registered building designer shall not act or vote on applicants for certification as architects.

SEC. 290. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

SEC. 291. Section 5535 of the Business and Professions Code is amended to read:

5535. As used in this article, the word "person" includes any individual, firm or corporation.

SEC. 292. Section 5536.1 of the Business and Professions Code is amended to read:

5536.1. It is a misdemeanor, punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person not registered to practice building design or without a certificate to practice architecture, to practice building design as defined in this chapter, to use any term confusingly similar to that of building designer or to advertise, or put out any sign or card or other device which might indicate to the public that he is a building designer, or that he is qualified to engage in the practice of building design.

SEC. 293. Section 5536.2 is added to the Business and Professions Code, to read:

5536.2. (a) All persons preparing plans, specifications, and instruments of service for others shall sign such plans, specifications, and other instruments of service and all contracts therefor, and if certificated or registered under this chapter shall note their certificate or registration number. Failure of any person to comply with this subdivision is a misdemeanor punishable as provided in Sections 5536 and 5536.1. This section shall not apply to employees of persons certificated or registered under this chapter while acting within the course of their employment.

(b) The preparation of plans, specifications, or instruments or service for any building, except the buildings described in Section 5537 of this code, by any person who does not have a certificate to practice architecture or is not registered as a building designer, is a misdemeanor punishable as provided in Sections 5536 and 5536.1.

SEC. 294. Section 5541 of the Business and Professions Code is amended to read:

5541. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, or repair of any building or structure shall also require as a condition precedent to the issuance of such permit a signed statement that the person who has prepared the plans and specifications for the construction, alteration, improvement, or repair of such building or structure is certificated or registered under this chapter to prepare such plans and specifications, or is otherwise licensed in this state to prepare such plans and specifications.

The signature and registration number on such plans and

specifications of a person who is certificated, registered or licensed to prepare such plans and specifications shall constitute compliance with this section.

It shall not be the responsibility of the agency that issues such permit to determine that the person who signed the plans and specifications or who submitted a signed statement that he is certificated or registered under this chapter, is qualified under this chapter to prepare such plans and specifications.

The provisions in this section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from the provisions of this chapter, except that the person preparing such plans and specifications for others shall sign such plans and specifications as provided by Section 5536.2.

SEC. 295. Section 5552 of the Business and Professions Code is amended to read:

5552. The applicant for a certificate to practice architecture shall:

(a) Not have committed acts or crimes constituting grounds for denial of a certificate under Section 480.

(b) Furnish evidence of having completed eight years of training and educational experience in architectural work. A five-year degree from a school of architecture approved by the board shall be deemed equivalent to five years of training and educational experience in architectural work.

SEC. 296. Section 5554 of the Business and Professions Code is amended to read:

5554. The certificate shall contain the name of the person to whom issued, and his age. Proper index and record of each certificate shall be kept by the board.

SEC. 297. Section 5577 of the Business and Professions Code is amended to read:

5577. The conviction of a crime substantially related to the qualifications, functions and duties of an architect by the holder of a certificate constitutes a ground for disciplinary action. The record of conviction or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is obtained, is conclusive evidence of the conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 298. Section 5600 of the Business and Professions Code is

amended to read:

5600. All certificates issued under this chapter expire at 12 p.m. on August 31 of each odd-numbered year if not, in each instance, renewed.

To renew an unexpired certificate, the certificate holder shall, before the time at which the certificate would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

The board shall issue a receipt to each architect promptly upon payment of the renewal fee.

SEC. 299. Section 5602 of the Business and Professions Code is amended to read:

5602. The money paid into the California State Board of Architectural Examiners Fund shall be used in the manner prescribed by law to defray the expenses of the board in carrying out and enforcing the provisions of this chapter.

SEC. 302. Section 5621 of the Business and Professions Code is amended to read:

5621. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms. Each appointment shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

SEC. 303. Section 5624 of the Business and Professions Code is amended to read:

5624. The board shall elect from its members a president to hold office for one year and a secretary who may or may not be a member of the board. The secretary shall hold such office at the pleasure of the board.

SEC. 304. Section 5652 of the Business and Professions Code is amended to read:

5652. If the applicant's examination is satisfactory, upon the payment of the certificate fee fixed by this chapter, the secretary shall issue a certificate to the applicant showing that the person named therein is entitled to practice landscape architecture in this state, in accordance with the provisions of this chapter.

SEC. 305. Section 5653 of the Business and Professions Code is amended to read:

5653. The board may deny or refuse to issue a certificate to an applicant upon the grounds for denial of a certificate specified in

Section 480.

SEC. 306. Section 5666 of the Business and Professions Code is amended to read:

5666. The fact that the holder of a certificate of registration is practicing in violation of the provisions of this chapter constitutes a ground for disciplinary action.

SEC. 307. Section 5668 of the Business and Professions Code is amended to read:

5668. The fact that the holder of a certificate is impersonating a landscape architect or former landscape architect of the same or similar name, or is practicing under an assumed or fictitious name, constitutes a ground for disciplinary action.

SEC. 308. Section 5675 of the Business and Professions Code is amended to read:

5675. The conviction of a crime substantially related to the qualifications, functions and duties of a landscape architect constitutes a ground for disciplinary action. The record of a conviction shall be conclusive evidence thereof.

SEC. 309. Section 5676 of the Business and Professions Code is amended to read:

5676. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a landscape architect is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 310. Section 5680.1 of the Business and Professions Code is amended to read:

5680.1. Except as otherwise provided in this chapter, a certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 5680 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A certificate which was not renewed at the time and in the manner provided under the law in effect before October 1, 1961, shall, for the purposes of this article, be considered to have expired on the date that the renewal fee became delinquent.

SEC. 311. Section 5680.2 of the Business and Professions Code is amended to read:

5680.2. A certificate which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the certificate may apply for and obtain a new certificate if:

(a) He is not subject to denial of the certificate under Section 480.

(b) He pays all of the fees which would be required of him if he were then applying for the certificate for the first time, and

(c) He takes and passes the examination which would be required of him if he were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that he is qualified to practice landscape architecture.

The board may, by regulation, authorize the waiver or refund of all or any part of the examination fee in those cases in which a certificate is issued without an examination under this section.

SEC. 312. Section 5685 of the Business and Professions Code is repealed.

SEC. 313. Section 6501 of the Business and Professions Code is amended to read:

6501. Each member, except a public member, shall be a practicing barber who has engaged in the practice of barbering in this state for at least five years immediately prior to his appointment. One member of the board shall be a journeyman barber and one member shall be a barber employing one or more journeyman barbers. Nothing in this section shall make ineligible for appointment to said board of one person who has been a registered barber in this state for at least five years immediately prior to his appointment and whose work as organizer, or officer, of an organization directly affecting the welfare of the barber business, prevents his continuous practice as a barber.

The public members shall not be licentiates of the board.

SEC. 314. Section 6502 of the Business and Professions Code is amended to read:

6502. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Vacancies shall be filled by appointment for the unexpired term.

The Governor may remove a member for cause.

Each appointment thereafter shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 315. Section 6511.5 of the Business and Professions Code is amended to read:

6511.5. The board may contract or otherwise arrange for reasonably required physical accommodations and facilities to conduct examinations.

SEC. 316. Section 6511.6 of the Business and Professions Code is amended to read:

6511.6. All examinations to determine fitness to practice as a barber or apprentice or to serve as an instructor in a barber college shall be prepared by or under the direction of the board but shall be administered by examiners-field representatives appointed by the director, pursuant to the State Civil Service Act, Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code, after consultation with and advice from the board.

The board shall establish standards and procedures governing the administration and grading of examinations that will reasonably carry out the purposes of this section and shall exercise the supervision necessary to assure compliance therewith.

An examiner-field representative shall have been engaged in conducting examinations under this chapter to determine fitness to practice as a barber or as an apprentice or to serve as an instructor in a barber college for at least six months within the five years immediately prior to his appointment, or shall be a registered barber who has engaged in the practice of barbering in this state for at least five years immediately prior to his appointment.

SEC. 317. Section 6512 of the Business and Professions Code is amended to read:

6512. Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 318. Section 6513 of the Business and Professions Code is repealed.

SEC. 319. Section 6546.5 of the Business and Professions Code is amended to read:

6546.5. Any person applying for a certificate of registration as a registered apprentice shall have completed the ninth grade, or shall have the equivalent education as determined by an examination conducted by the board.

SEC. 322. Section 6576 of the Business and Professions Code is amended to read:

6576. Conviction of any crime substantially related to the qualifications, functions, and duties of the certificate or registration holder constitutes a cause for disciplinary action. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo

contendere is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 323. Sections 6582 of the Business and Professions Code is repealed.

SEC. 324. Section 6625 of the Business and Professions Code is amended to read:

6625. Certificates to operate a barber college or a facility at which barbering is taught expire at 12 p.m. on September 30 of each year, and all other certificates expire at 12 p.m. on September 30 of each odd-numbered year, if not, in each instance, renewed.

SEC. 327. Section 6701 of the Business and Professions Code is amended to read:

6701. "Professional engineer," within the meaning and intent of this act, refers to a person engaged in the professional practice of rendering service or creative work requiring education, training and experience in engineering sciences and the application of special knowledge of the mathematical, physical and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design of public or private utilities, structures, machines, processes, circuits, buildings, equipment or projects, and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

SEC. 328. Section 6702 of the Business and Professions Code is amended to read:

6702. "Civil engineer" as used in this chapter means a professional engineer in the branch of civil engineering and refers to one who practices or offers to practice civil engineering in any of its phases.

SEC. 329. Section 6702.1 of the Business and Professions Code is amended to read:

6702.1. "Electrical engineer" as used in this chapter means a professional engineer in the branch of electrical engineering and refers to one who practices or offers to practice electrical engineering in any of its phases.

SEC. 330. Section 6702.2 of the Business and Professions Code is amended to read:

6702.2. "Mechanical engineer" as used in this chapter means a professional engineer in the branch of mechanical engineering and refers to one who practices or offers to practice mechanical engineering in any of its phases.

SEC. 331. Section 6704 of the Business and Professions Code is

amended to read:

6704. In order to safeguard life, health, property, and public welfare, only persons registered under the provisions of this chapter shall be entitled to take and use the titles "consulting engineer," "professional engineer," or "registered engineer," or any combination of such titles, and according to registration with the board the titles "civil engineer," "structural engineer," "chemical engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "engineer-in-training" or the titles in such other branches as the board may establish. The provisions of this act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, and petroleum engineering do not apply to employees in the communication industry; nor to the employees of contractors while engaged in work on communication equipment; provided, that such employees may not use the title unless registered. Nor shall the provisions of this section prevent the use of the title "consulting engineer" by a person who has qualified for and maintained exemption for using such title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor under the provisions of Chapter 15 (commencing with Section 8700) of Division 3 regardless of whether or not he has received commissions from clients and fees for services rendered.

SEC. 332. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four years expiring on June 1 of the fourth year following the year in which the previous term expired. Vacancies shall be filled by appointment for the unexpired term.

Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office on November 23, 1970.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

As vacancies among the professional membership occur on the board, the Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, and another is authorized to use the title of structural engineer.

SEC. 334. Section 6760 of the Business and Professions Code is amended to read:

6760. A temporary authorization for the practice of engineering

in a branch defined by this chapter may be granted, for a specific project, upon application and payment of the fee prescribed in Section 6799 of this chapter for a period not to exceed sixty (60) consecutive days in any calendar year; provided:

(a) He maintains no place of business in this state.

(b) He is legally qualified to practice that branch of engineering in the state or country where he maintains a place of business.

(c) The applicant demonstrates by means of an individual appearance before the board satisfactory evidence of his knowledge of the application of seismic forces in the design of structures or adequate knowledge in any of the other phases of civil and professional engineering for which the applicant proposes to practice under the temporary authorization.

(d) If the applicant can satisfy the board that completion of the specific project for which the authorization is granted, will require more than 60 consecutive calendar days, the board may extend the authorization to a period not to exceed 120 consecutive days.

Upon completion of the requirements, the secretary on direction of the board shall issue a temporary authorization to the applicant.

SEC. 335. Section 6775 of the Business and Professions Code is amended to read:

6775. The board may receive and investigate complaints against registered professional engineers, and make findings thereon.

By a majority vote, the board may reprove, privately or publicly, or may suspend for a period not to exceed two years, or may revoke the certificate of any professional engineer registered hereunder:

(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a registered professional engineer, in which case the certified record of conviction shall be conclusive evidence thereof.

(b) Who has been found guilty by the board of any deceit, misrepresentation, violation of contract, fraud, negligence or incompetency in his practice.

(c) Who has been found guilty of any fraud or deceit in obtaining his certificate.

(d) Who aids or abets any person in the violation of any provisions of this chapter.

(e) Who violates any provision of this chapter.

SEC. 336. Section 6779 of the Business and Professions Code is amended to read:

6779. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered professional engineer is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the

provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 337. Section 6787 of the Business and Professions Code is amended to read:

6787. Every person is guilty of a misdemeanor and for each offense of which he is convicted is punishable by a fine of not more than five hundred dollars ($500) or by imprisonment not to exceed three months, or by both fine and imprisonment:

(a) Who, unless he is exempt from registration under this chapter, practices or offers to practice civil, electrical or mechanical engineering in this state according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his own the certification of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who impersonates or uses the seal of any other practitioner.

(e) Who uses an expired or revoked certificate of registration.

(f) Who shall represent himself as, or use the title of, registered civil, electrical or mechanical engineer, or any other title whereby such person could be considered as practicing or offering to practice civil, electrical or mechanical engineering in any of its branches, unless he is correspondingly qualified by registration as a civil, electrical or mechanical engineer under this chapter.

(g) Who, unless appropriately registered, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical or mechanical engineering work is solicited, performed or practiced.

(h) Who uses the title, or any combination of such title, or "professional engineer," "registered engineer," "chemical engineer," "civil engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "structural engineer," or "engineer-in-training," or the titles in such other branches as the board may establish, or who makes use of any abbreviation of such title which might lead to the belief that he is a registered engineer, without being registered as required by this act.

(i) Who uses the title "consulting engineer" without being registered as required by this act or without being authorized to use such title pursuant to legislation enacted at the 1963, 1965 or 1968 Regular Session.

(j) Who violates any provision of this chapter.

SEC. 338. Section 6796.3 of the Business and Professions Code is amended to read:

6796.3. Certificates of registration as a professional engineer, and certificates of authority to use the title "structural engineer" or "consulting engineer" which are not renewed within five years after

expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of registration or of a certificate under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to practice the branch of engineering in which he again seeks to be certified, and

(c) He pays all of the fees that would be required of him if he were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

SEC. 339. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a professional engineer at not more than sixty dollars ($60), for authority to use the title "structural engineer" at not more than seventy-five dollars ($75), and for each application for certification as an engineer-in-training at not more than forty dollars ($40).

(b) The duplicate certificate fee at not more than six dollars ($6).

(c) The temporary registration fee for a professional engineer at not more than twenty dollars ($20).

(d) The renewal fee for a professional engineer shall be fixed by the board at not more than forty dollars ($40) for each branch of professional engineering in which registration is held; and the renewal fee for authority to use the title "structural engineer" at not more than forty dollars ($40).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee in effect on the date of its reinstatement, but not more than twenty-five dollars ($25).

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 340. Section 6854 of the Business and Professions Code is amended to read:

6854. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Members of the State Bar of California.

(b) Persons collecting accounts for not more than one employer if all collection efforts are carried on in the name of the employer and if an employer-employee relationship exists.

(c) Common carriers.

(d) Duly licensed real estate brokers or agents doing real estate business.

(e) Duly licensed personal property brokers.

(f) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner of the State of California or the Federal Home Loan Bank Board.

(g) Any industrial loan company subject to the jurisdiction of the Corporations Commissioner of the State of California.

(h) Any title insurance company or underwritten title company as defined in Section 12340.5 of the Insurance Code.

"Collection agency" does not include any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

SEC. 341. Section 6864 of the Business and Professions Code is amended to read:

6864. The chief shall keep in his office in a suitable record all applications for licenses, accompanying certificates, statements and documents and all bonds required to be filed under this chapter. The record shall state whether or not a license has been issued under the application and bond, and if revoked the date of filing the order of revocation, and if reinstated the date of filing the order of reinstatement. The chief shall keep a list of all persons, whose licenses have been revoked. In the record all licenses issued shall be indicated by the name and address of the licensee.

The chief shall adopt a seal for his own use. The seal shall have the words "Bureau of Collection and Investigative Services, State of California" thereon and shall otherwise comply with Section 107.5. The care and custody of the seal shall be in the office of the chief.

SEC. 342. Section 6865.5 of the Business and Professions Code is amended to read:

6865.5. Of the seven members of the Collection Agency Advisory Board, three members shall have been actively engaged in business as a licensed collector or manager of a licensed collection agency in this state for a minimum period of five consecutive years immediately preceding their appointment and shall continue in good standing in such capacity during their terms of office. Four members shall be public members, who may be customers of a licensee but shall not be licensees or engage in any business or profession in which any part of the fees, compensation or revenue thereof is derived from any licensee.

SEC. 343. Section 6866 of the Business and Professions Code is amended to read:

6866. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No member shall serve more than two terms of office.

The Governor shall appoint the additional public member provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licensed collector or manager of a licensed collection agency.

SEC. 344. Section 6871 of the Business and Professions Code is amended to read:

6871. In addition to any other penalty, any person, firm, corporation or voluntary association, or any officer or director of any corporation or association carrying on business as a collection agency who does not hold a valid collection agency license issued pursuant to this chapter or who carries on such business after the revocation or expiration of such license is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment not exceeding one year or by both fine and imprisonment.

The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his jurisdiction.

SEC. 345. Section 6881 of the Business and Professions Code is amended to read:

6881. All applicants shall be examined concerning their competency, experience, and qualifications by the director; and the director or the chief may take testimony of anyone in regard thereto under oath, which each may administer.

SEC. 346. Section 6885 of the Business and Professions Code is amended to read:

6885. Except as otherwise provided in this chapter, an applicant for a provisional qualification certificate shall:

(a) Be at least 18 years of age.

(b) Have been a bona fide resident of this state continuously for at least one year next preceding the date of the filing of the application.

(c) Pay the required application and examination fees to the chief.

(d) Pass the examination required for a qualification certificate.

SEC. 347. Section 6886 of the Business and Professions Code is amended to read:

6886. Except as in this chapter otherwise provided, an applicant for a qualification certificate shall:

(a) Be at least 18 years of age.

(b) Have been a registered employee under this chapter and actively engaged in the collection agency business within this state for at least one year during the five years next preceding the date on which his application is filed.

(c) Pass the examination required.

(d) Pay the required application and examination fees to the chief, except that the examination fee shall be waived if the applicant is the holder of a provisional qualification certificate.

SEC. 348. Section 6886.1 of the Business and Professions Code is

amended to read:

6886.1. After a hearing the director may refuse to grant permission to take the collection agency examination, and to issue a qualification certificate or a provisional qualification certificate if the applicant has:

(a) Committed or done any act which, if committed or done by a licensee, would be grounds for the suspension or revocation of a license.

(b) Committed or done any act involving dishonesty, fraud, or deceit whereby the applicant has been benefited or where some injury has been sustained by another.

(c) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime substantially related to the qualifications, functions and duties of a collection agency licensee, qualification certificate holder, or provisional qualification certificate holder and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

(d) Been refused a license or registration under this chapter or had a license or registration revoked. The director shall not, however, refuse to grant permission to take the collection agency examination or refuse to issue a qualification certificate or a provisional qualification certificate to an applicant on the ground specified in this subdivision if subsequent to the refusal or revocation referred to in this subdivision the director issued a license or certificate of registration to such applicant.

(e) Been an officer, director, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked. The director shall not, however, refuse to grant permission to take the collection agency examination or refuse to issue a qualification certificate or a provisional qualification certificate to an applicant on the ground specified in this subdivision if subsequent to the refusal or revocation referred to in this subdivision the director issued a license to the person referred to herein.

(f) Falsified or omitted any of the information submitted to the chief in support of an application under this chapter.

(g) Impersonated, or permitted or aided and abetted another to impersonate, a law enforcement officer or employee of the United States, a state, or any political subdivision thereof.

(h) Used a badge in connection with his employment, or made any statement in connection with his employment, with the intent to give an impression that he was a law enforcement officer of the United States, a state, or any political subdivision thereof, or used

with intent to deceive the public, any uniform or insignia in connection with his employment likely to be confused with that of any law enforcement officer of the United States, a state, or any political subdivision thereof.

(i) Been an officer, director, partner, or manager of any person who has been refused a license under Chapter 11 (commencing with Section 7500) of Division 3 of this code.

(j) Been refused a license or registration, or had a license or registration revoked under Chapter 11 (commencing with Section 7500) of Division 3 of this code.

Nothing contained in this section shall preclude the applicant from showing rehabilitation.

SEC. 348.5. Section 6894.13 of the Business and Professions Code is amended to read:

6894.13. Any employee who knowingly falsifies the fingerprints or photograph submitted is guilty of a felony.

SEC. 349. Section 6906 of the Business and Professions Code is amended to read:

6906. The chief may refuse to issue a license if the applicant, or any partner, director, shareholder, officer, or trustee thereof, or any director, shareholder, or officer of a corporation which is a shareholder thereof, or the qualified certificate holder who is to be in charge of the business of the applicant or in charge of any office thereof:

(a) Has been convicted of a crime substantially related to the qualifications, functions and duties of a collection agency licensee or qualification certificate holder.

(b) Has committed any act which would justify the denial of registration under Section 6894.7.

(c) Has had a license revoked for cause, or has been a partner, director, shareholder, officer, trustee, or qualified certificate holder of a partnership, corporation, or unincorporated association, the license of which has been revoked for cause.

(d) Has been disqualified from further employment in the collection agency business pursuant to the provisions of this chapter.

(e) Has committed any act which would justify refusal of permission to take the collection agency examination and to issue a qualification certificate under Section 6886.1.

The chief shall not issue a license unless the business of the applicant is to be placed under the active charge of a qualified certificate holder.

SEC. 350. Section 6906.2 of the Business and Professions Code is repealed.

SEC. 351. Section 6911 of the Business and Professions Code is amended to read:

6911. The license is not transferable and is effectual until the following first day of July and so long thereafter as continued in effect in accordance with Article 11, unless sooner revoked or canceled.

In the event of the loss or destruction of a license, the licensee may

file with the chief an affidavit explaining the loss or destruction and pay the duplicate license fee prescribed. Thereupon the chief shall issue a duplicate license.

SEC. 352. Section 6913 of the Business and Professions Code is amended to read:

6913. The acquisition of more than 10 percent of the voting stock or shares in any corporation or unincorporated association by any person shall be grounds for revocation or suspension of any and all licenses of such corporation or unincorporated association if the director, after proceedings had in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code finds that such person:

(a) Has been convicted of a crime substantially related to the qualifications, functions and duties of a collection agency licensee.

(b) Has committed any act which would justify refusal of permission to take the collection agency examination and to issue a qualification certificate under Section 6886.1.

Every licensed corporation and unincorporated association shall file with the chief a written report of any transfer, issuance, cancellation or redemption of stock or memberships amounting to 10 percent or more of the total voting stock or memberships then outstanding within 30 days after such transfer, issuance, cancellation or redemption.

SEC. 353. Section 6922 of the Business and Professions Code is amended to read:

6922. Whenever a person actively in charge of an office to which Section 6921 applies ceases to be in charge, the license shall file with the chief notice in writing within 10 days from such cessation.

If the notice is filed, the license shall remain in force for a period of 30 days after the filing of such notice or for such further period as allowed under rules and regulations. At the end of the 30-day period or such additional period as specified by the chief, if written notice is not given that a qualified person is then actively in charge of the office the license shall be ipso facto suspended.

If the licensee shall fail to give written notice at the end of the 10-day period, the license shall be ipso facto suspended.

A person who performs any act for which a collection agency license is required during the period of such a suspension is subject to the penal provisions of Article 3 of this chapter in addition to the provisions of Article 10 (commencing with Section 6925) of this chapter.

SEC. 354. Section 6923 of the Business and Professions Code is amended to read:

6923. Except as herein otherwise provided no person shall be in charge of any licensed office or agency if such person has ever had a license revoked for cause or has ever been disqualified from further employment in the collection agency business pursuant to Article 10; was a partner, managing employee, officer, director, trustee or stockholder of a partnership, corporation or unincorporated

association a license of which has been revoked for cause.

SEC. 355. Section 6925 of the Business and Professions Code is amended to read:

6925. Any person aggrieved may file with the chief a written statement alleging acts of misconduct or violations of this chapter or any rule or regulation established thereunder by a licensee or employee of a licensee. All such statements shall be referred by the chief for investigation and report.

It shall also be the duty of the chief to initiate and conduct investigations into the business and affairs of licensees on his own motion.

The insolvency of a licensee, or the making of a general assignment for the benefit of creditors by a licensee or by a partner of a licensed copartnership, constitutes a ground for the institution of disciplinary proceedings and the revocation of a license or qualification certificate or other disciplinary action.

SEC. 356. Section 6926 of the Business and Professions Code is amended to read:

6926. The assignment by a customer to a licensee of an account for collection creates a fiduciary relationship between the customer and the licensee. Such relationship imposes upon every licensee and employee a fiduciary duty to the customer the same as that imposed upon a trustee.

In carrying out the purpose of such fiduciary relationship every licensee or employee is bound to act in the highest good faith toward his beneficiary and every licensee or employee shall not:

(a) Obtain any advantage over the beneficiary by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.

(b) Use or deal with the trust property for his own profit, or for any other purpose unconnected with the trust, in any manner.

(c) Use the influence which his position gives him to obtain any advantage over his beneficiary.

(d) Willfully mingle the trust property with his own so as to constitute himself in appearance its absolute owner.

All transactions between a licensee or employee and the beneficiary during the existence of the trust, or while the influence acquired by the trustee remains, by which he obtains any advantage from his beneficiary, are presumed to be entered into by the latter without sufficient consideration, and under undue influence.

Any licensee or employee who uses or disposes of the trust property contrary to the provisions of this chapter or the administrative rules established thereunder may at the option of the beneficiary be required to account for all profits so made, or to pay the value of its use, and if he has disposed thereof to replace it, with its fruits, or to account for its proceeds, with interest.

A violation of any of the above provisions by a licensee or employee constitutes grounds for the institution of disciplinary proceedings and revocation of a license or other disciplinary action.

SEC. 357. Section 6930 of the Business and Professions Code is amended to read:

6930. If it be found upon the hearing, or from the evidence in uncontested cases, that the licensee or employee has willfully violated any of the provisions of this chapter, or the rules and regulations established under it, or that he has been guilty of fraud, dishonesty, or misrepresentation, or any act or omission inconsistent with the faithful discharge of his duties or obligations, or that a final conviction of a crime substantially related to the qualifications, functions and duties of the licensee or employee has been entered against him, or that he has violated or failed to comply with any conditions imposed upon him by a decision of the director, the director shall, within thirty (30) days after final submission of the case, render a decision which may:

(a) Order the revocation of the license or licenses of the licensee or licensees accused, or order any accused person disqualified from further employment in the collection agency business.

(b) Order the license or licenses suspended for such period of time as may be specified.

(c) Impose upon the licensee, licensees, or employee compliance with such just and reasonable conditions as may be specified.

(d) Order the revocation or suspension of the qualification certificate or the provisional qualification certificate of a holder thereof.

(e) Dismiss the accusation as to any one or more of the licensees or employees accused.

SEC. 359. Section 6956 of the Business and Professions Code is amended to read:

6956. (a) The director shall fix, charge, and collect the following fees:

(1) An original license fee of not more than three hundred dollars ($300).

(2) A license continuation fee of not more than one hundred eighty dollars ($180).

(3) A duplicate license fee of not more than twenty dollars ($20).

(4) A temporary license fee of not more than fifty dollars ($50).

(5) A delinquency fee of not more than twenty dollars ($20).

(6) An examination fee of not more than one hundred dollars ($100).

(7) A qualification certificate application fee of not more than twenty dollars ($20).

(8) A provisional qualification certificate application fee of not more than twenty dollars ($20).

(9) A qualification certificate continuation fee of not more than twenty dollars ($20).

(10) A reinstatement fee equal to the amount of the annual continuation fee plus a penalty of 50 percent thereof, but not more than the renewal fee plus twenty-five dollars ($25).

(11) A fee not more than forty dollars ($40) for reinstatement of

a qualification certificate under Section 6893.

(12) An employee registration fee of not more than ten dollars ($10).

(13) An employee registration continuation fee of not more than ten dollars ($10).

(b) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge; and shall charge and collect a fee of one dollar ($1) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

SEC. 360. Section 7065.1 of the Business and Professions Code is repealed.

SEC. 361. Section 7068.2 of the Business and Professions Code is amended to read:

7068.2. If the individual qualifying for the license is a responsible managing officer or responsible managing employee and ceases for any reason whatsoever to be connected with the individual or firm to whom the license is issued, the licensee and the responsible managing officer or responsible managing employee qualifying for such license shall notify the registrar in writing within 30 days from such cessation. If a notice is given the license shall remain in force for a reasonable length of time to be determined by rules of the board.

If the licensee or his responsible managing officer or responsible managing employee qualifying for the license fails to notify the registrar in writing within the 30-day period, at the end of the period the license shall be automatically suspended. The license shall be reinstated upon the qualification of an individual in place of the responsible managing officer or responsible managing employee who has ceased to be connected with the licensee.

To replace a responsible managing officer or responsible managing employee, the licensee shall file with the registrar an application, executed by the licensee or a member of the licentiate firm, designating an individual to qualify as required by this chapter on behalf of the licensee. The application shall be accompanied by the fee fixed by this chapter and shall state that the individual qualifying has not had his license suspended or revoked or that he has not been connected with a licensee who has had a license suspended or revoked for reasons that would preclude such individual from personally qualifying on the grounds specified in Section 480.

SEC. 362. Section 7069 of the Business and Professions Code is amended to read:

7069. An applicant, and each officer, director, partner, associate and responsible managing employee thereof, shall not have committed acts or crimes which are grounds for denial of licensure under Section 480.

SEC. 363. Section 7071.3 of the Business and Professions Code is amended to read:

7071.3. Notwithstanding any other provision of this code, the holder of a current valid license under this chapter who has entered or enters the armed forces of the United States may designate a responsible managing person or persons to act for him while in the armed forces and until one year after his discharge therefrom, after which time the authority to so act for the licensee shall terminate. The renewal fee shall be paid for any such licensee so designating others to act for him.

Any license shall remain in full force and effect for 30 days after the entrance of the licensee into the armed forces, but he shall prior to the expiration of such 30-day period provide the registrar with the name or names of the persons so designated to conduct his business. The registrar may qualify such persons in any manner he may adopt. Persons so designated shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

Persons so designated committing any of the acts or crimes constituting grounds for denial of licensure under Section 480 shall be removed from the business of such licensee after a hearing as provided in this chapter.

SEC. 364. Section 7073 of the Business and Professions Code is amended to read:

7073. If information is brought to the attention of the registrar establishing grounds for denial of a license to an applicant under Section 480, the registrar in his discretion may deny the application and shall forthwith notify the applicant to show cause within not more than 30 days, why the application should not be denied. The proceedings shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

SEC. 365. Section 7123 of the Business and Professions Code is amended to read:

7123. A conviction of a crime substantially related to the qualifications, functions and duties of a contractor constitutes a cause for disciplinary action. The record of the conviction shall be conclusive evidence thereof.

SEC. 366. Section 7137 of the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule provided that the board may adjust such fees so that the total of such fees shall not produce a total estimated revenue which is in excess of the estimated total cost, including the cost specified in Section 7136, to the board for the administration of this chapter:

(a) The application fee for an original license in a single classification is fifty dollars ($50) but the board may increase the fee to not more than one hundred dollars ($100).

The application fee for each additional classification applied for in connection with an original license is twenty dollars ($20) but the

board may increase the fee to not more than forty dollars ($40).

(b) After failure of an examination, the fee for reexamination of an applicant who has applied for an original license, additional classification, or a change of responsible managing officer or responsible managing employee, is twenty dollars ($20) but the board may increase the fee to not more than forty dollars ($40).

(c) The renewal fee for an active license is fifty dollars ($50), but the board may increase the fee to not more than one hundred dollars ($100).

The renewal fee for an inactive license is fifteen dollars ($15) but the board may increase the fee to not more than thirty dollars ($30).

(d) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(e) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(f) The application fee for each additional classification pursuant to the provisions of Section 7059 is twenty dollars ($20) but the board may increase the fee to not more than forty dollars ($40).

(g) The application fee to replace a responsible managing officer or employee pursuant to the provisions of Section 7068.2 is twenty dollars ($20) but the board may increase the fee to not more than forty dollars ($40).

(h) Each registration fee for a home improvement salesman is twenty-five dollars ($25) but the board may increase the fee to not more than fifty dollars ($50).

(i) The renewal fee for a home improvement salesman registration is twenty-five dollars ($25) but the board may increase the fee to not more than fifty dollars ($50).

SEC. 367. Section 7140 of the Business and Professions Code is amended to read:

7140. All licenses issued under the provisions of this chapter shall expire on June 30th of each odd-numbered year.

To renew a license which has not expired, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the registrar and pay the renewal fee prescribed by this chapter. Renewal of an unexpired license shall continue the license in effect for the two-year period ending at 12 p.m. on June 30th of the next odd-numbered year, when it shall expire if it is not again renewed.

SEC. 368. Section 7153.1 of the Business and Professions Code is amended to read:

7153.1. The home improvement salesman shall submit to the

registrar an application in writing containing the statement that he desires the issuance of a registration under the terms of this article.

The application shall be made on a form prescribed by the registrar and shall be accompanied by the fee fixed by this chapter.

The registrar may refuse to register the applicant under the grounds specified in Section 480.

SEC. 369. Section 7202 of the Business and Professions Code is amended to read:

7202. Each of the appointed members of the board shall hold office for a term of four years and until his successor is appointed and qualified or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as an appointed member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

SEC. 371. Section 7211.9 of the Business and Professions Code is amended to read:

7211.9. The board may suspend or revoke a license or certificate issued under this chapter if it determines that the licensee, or registrant, or its manager or responsible directing officer has:

(a) Made any false statement or given any false information in connection with an application for a license or certificate, or a renewal or reinstatement thereof.

(b) Violated any provision of this chapter.

(c) Violated any rule of the board adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a crime substantially related to the qualifications, functions and duties of a trainer of guide dogs. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

SEC. 373. Section 7303 of the Business and Professions Code is amended to read:

7303. Members of the board shall be appointed for a term of four years and shall hold office until the appointment and qualifications of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No member shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring shall be filled by appointment within 60 days, and vacancies occurring during a term shall be filled for the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the

board.

SEC. 374. Section 7324 of the Business and Professions Code is amended to read:

7324. The following persons are exempt from this chapter:

(a) All persons authorized by the laws of this state to practice medicine, surgery, dentistry, pharmacy, osteopathy, chiropractic, naturopathy or podiatry.

(b) Commissioned officers of the Medical Corps of the United States Army, Navy or Marine Hospital Service or Public Health Service when engaged in the actual performance of their official duties, and attendants attached to these services.

(c) Barbers, insofar as their usual and ordinary vocation and profession is concerned when engaged in any of the following practices:

(1) Arranging, dressing, curling and waving (except permanent waving), cleansing, cutting or singeing the hair of any person.

(2) Massaging, cleansing, stimulating, exercising or similar work upon the scalp, face or neck of any person, with the hands or with mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Employees employed to render cosmetological services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industry.

SEC. 375. Section 7332 of the Business and Professions Code is amended to read:

7332. The board shall admit to examination for a certificate of registration and license as a cosmetologist any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who has completed the 10th grade in the public schools of this state or its equivalent.

(d) Who has had any one of the following:

(1) Training of at least 1,600 hours, in a school of cosmetology approved by the board.

(2) Practice of the occupation of a cosmetologist, for a period of four years outside of this state. Each three months of such practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of the occupations of a cosmetologist are practiced.

SEC. 376. Section 7332.5 of the Business and Professions Code is amended to read:

7332.5. The board shall admit to examination for a certificate of registration and license as a cosmetology instructor any person who has made application to the board in proper form, has paid the fee

required by this chapter, and is qualified as follows:

(a) Has had at least 600 hours of teacher training in an approved school in this state or equivalent training in another state, or one year's practical experience within the past three years in all branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment in this state or equivalent experience in another state.

(b) Has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Holds a valid California license as a cosmetologist.

An applicant shall submit an affidavit signed by his employers attesting to his experience.

The board shall admit to the examination any applicant who has applied in proper form, has paid the required fee, is qualified pursuant to subdivisions (b) and (c) of this section, and prior to the effective date of the amendments made to this section by the 1971 Regular Session of the Legislature had at least 600 hours of teacher training in an approved school in this state or equivalent training in another state, or one year of practical experience in all branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment in this state or equivalent experience in another state.

SEC. 377. Section 7332.6 of the Business and Professions Code is amended to read:

7332.6. Notwithstanding any other provision of law, any person currently and validly licensed in this state as a cosmetologist who has made application to the board in proper form, has paid the fee required by this chapter, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480, shall be granted a provisional license as a cosmetology instructor.

The provisional license shall authorize the holder thereof to practice the occupation of a cosmetology instructor in a licensed school of cosmetology on the basis of not more than one provisional licensed instructor for each licensed cosmetology instructor employed full time by such school.

Every provisional license as a cosmetology instructor shall expire one year from the date of issue and shall not be renewable.

Any person issued a provisional license as a cosmetology instructor who, within a period of not more than six months immediately following the date of expiration thereof, has made application to the board in proper form, accompanied by proof satisfactory to the board of having practiced the occupation of a cosmetology instructor for a period of not less than 10 months full time or its equivalent in a licensed school, has paid the fee required by the chapter and has not committed acts or crimes constituting grounds for denial of licensure under Section 480, shall be admitted to examination for a license as a cosmetology instructor.

SEC. 378. Section 7333 of the Business and Professions Code is amended to read:

7333. Every person applying to the board for a license as a junior operator upon the proper application form accompanied by two photographs, size 3 by 3 inches, and paying the fee required by this chapter, shall be issued a license as a junior operator, if he is qualified as follows:

(a) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Is over the age of 16 years.

(c) Has completed the 10th grade in the public schools of this state or its equivalent.

SEC. 379. Section 7342 of the Business and Professions Code is amended to read:

7342. The board shall admit to examination for a certificate of registration and license as an electrologist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who has completed the 12th grade, or an accredited senior high school, in public schools of this state or its equivalent.

(d) Who has had any one of the following:

(1) Practical training of 500 hours in a licensed school in which the practice is taught.

(2) Instruction, training and practice as a junior electrologist for a period of not less than 12 months, in a licensed cosmetological establishment, under a licensed electrologist.

(3) Holds a valid electrology license issued by a state whose licensing requirements are equal to or greater than California.

(4) Either training or practice, or a combination of training and practice, outside of this state in electrology for such period as may be specified by rules of the board.

SEC. 380. Section 7343 of the Business and Professions Code is amended to read:

7343. Every person applying to the board for a license as a junior electrologist upon the proper application form accompanied by two photographs, size 3 by 3 inches, and paying the fee required by this chapter, shall be issued a license as a junior electrologist, if he is qualified as follows:

(a) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Is not less than 17 years and 6 months of age.

(c) Who has completed the 12th grade of this state, or an accredited senior high school, or its equivalent.

SEC. 381. Section 7345 of the Business and Professions Code is repealed.

SEC. 382. Section 7346 of the Business and Professions Code is amended to read:

7346. The board shall admit to the examination for a certificate

of registration and license as an electrology instructor any person who has made application to the board in proper form, paid the fee required by this chapter and who is qualified as follows:

(a) Who is not less than 18 years of age.

(b) Who has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who holds a valid California license as an electrologist.

(d) Who has had three years of practical experience as an electrologist in the State of California within the past five years.

SEC. 383. Section 7351 of the Business and Professions Code is amended to read:

7351. The board shall admit to the examination for a certificate of registration and license as a manicurist, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

(a) Who is not less than 17 years of age.

(b) Who has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Who has completed the 10th grade in the public schools of this state or its equivalent.

(d) Who has had any one of the following:

(1) Practical training of at least 350 hours in a licensed school in which the practice is taught.

(2) Practice in manicuring for a period of one year outside of this state.

SEC. 384. Section 7381 of the Business and Professions Code is amended to read:

7381. Any person, firm or corporation desiring to operate a cosmetological establishment shall make an application to the board for a certificate of registration and license, accompanied by the registration fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure under Section 480. A certificate issued pursuant to this section shall authorize the operation of the establishment only at the location for which the certificate is issued. Operation of the establishment at any other location shall be unlawful unless a certificate for the new location has been obtained upon compliance with the provisions of this section applicable to the issuance of a certificate in the first instance.

SEC. 385. Section 7431 of the Business and Professions Code is amended to read:

7431. The grounds for disciplinary action are as follows:

(a) Failure of a person, firm or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter.

(b) Failure to comply with the rules governing sanitary conditions, adopted by the board and approved by the State

Department of Health, for the regulation of cosmetological establishments, schools of cosmetology or the practice of cosmetology.

(c) Failure to comply with the rules adopted by the board for the regulation of cosmetological establishments, schools of cosmetology, or the practice of cosmetology.

(d) Obtaining practice in cosmetology, or any branch thereof, or money, or any other thing of value, by fraudulent misrepresentation.

(e) Gross malpractice.

(f) Continued practice by a person knowingly having an infectious or contagious disease.

(g) Habitual drunkenness, or habitual addiction to the use of morphine or any habit-forming drug.

(h) Advertisement by means of knowingly false or deceptive statements.

(i) Permitting a certificate of registration or license to be used where the holder is not personally, actively and continuously engaged in business.

(j) Failure to display the license.

(k) Conviction of any crime substantially related to the qualifications, functions and duties of the registration or license holder, in which case the record of conviction or a certified copy, shall be conclusive evidence thereof.

(*l*) Engaging, outside of a licensed school of cosmetology or cosmetological establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such service is necessary because of the illness or other physical incapacity of the person with respect to whom it is performed, it may be performed by a licensee obtained for the purpose from a licensed cosmetological establishment.

SEC. 386. Section 7437 of the Business and Professions Code is amended to read:

7437. Except as otherwise provided in this article, a license of a cosmetologist, cosmetology instructor, electrologist, electrology instructor, manicurist, cosmetician, or cosmetological establishment which has expired for failure of the licensee to renew within the time fixed by Section 7436 may be renewed within five years of the date of expiration upon application therefor and upon payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7436 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 387. Section 7437.3 of the Business and Professions Code is

amended to read:

7437.3. A license as a cosmetologist, cosmetology instructor, electrologist, electrology instructor, cosmetician, or manicurist which has not been renewed within five years following its expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of the expired license may apply for and obtain a new license, however, if:

(a) The holder has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) The holder pays all the fees and takes and passes the examination that would be required of the holder if the holder were then applying for the license for the first time.

SEC. 388. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, insurance adjusters, repossessors, and alarm company operators and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson must meet as a condition of becoming eligible to carry firearms pursuant to paragraph (5) of subdivision (d) of Section 12031 and Section 12031.5 of the Penal Code.

(f) Requiring each uniformed employee of a private patrol operator, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who has committed acts or crimes constituting grounds for denial of licensure under Section 480, and may impose such reasonable additional

requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who has committed acts or crimes constituting grounds for denial of licensure under Section 480, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(i) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 389. Section 7514.1 of the Business and Professions Code is amended to read:

7514.1. (a) Every uniformed employee of a licensee who operates a private patrol and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest and a course of training in the carrying and use of firearms. The course of training in the carrying and use of firearms shall not be required of any employee who is not required or permitted by a licensee to carry or use firearms. The course in the carrying and use of firearms and the course of training in the exercise of the powers to arrest shall meet the standards which shall be prescribed by the Department of Consumer Affairs. The department shall encourage restraint and caution in the use of firearms.

(b) The department shall prescribe the minimum standards for a course of training in the exercise of powers of arrest.

(c) No person specified in subdivision (a) shall carry or use any firearm until he has successfully completed the course of training prescribed in subdivision (a).

(d) The department shall report to the Legislature on or before March 1, 1977 concerning the nature and scope of the training offered pursuant to subdivision (a), the number of employees so trained and the conformity of the industry to the standards established by the department.

SEC. 390. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person other than an insurance adjuster who, for any consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or watch.

(d) An insurance adjuster within the meaning of this chapter is a person other than a private investigator who, for any consideration whatsoever, engages in any of the activities enumerated in subdivision (a) in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business.

(e) A repossessor within the meaning of this chapter is a person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including but not limited to personal property registered under the

provisions of the Vehicle Code, which has been sold under a conditional sales agreement or which is subject to a chattel mortgage. A licensee under this chapter shall not engage in business or accept employment to collect claims owed or due or asserted to be owed or due to another unless the licensee has complied with the provisions of Chapter 8 (commencing with Section 6850) of Division 3 in addition to complying with the provisions of this chapter, except that a repossessor licensed under this chapter may make a written demand for payment in lieu of repossession if the demand is made pursuant to an assignment for repossession and if under the terms of the assignment the fee or remuneration due to the repossessor is not based on a percentage of the amount collected.

(f) An alarm company operator within the meaning of this chapter shall mean and include any business operated for any consideration whatsoever, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. "Alarm company operator," however, shall not include a business which merely sells from a fixed location or manufactures alarm systems. Nor shall it include a business which only installs alarms unless such business services, installs, monitors or responds to alarm systems at the protected premises.

(g) An alarm agent within the meaning of this chapter is a person employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing, or servicing an alarm system. The term "alarm system" shall mean an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

SEC. 391. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

SEC. 392. Section 7526 of the Business and Professions Code is amended to read:

7526. Before an application for a license is granted, the applicant or his manager, shall meet all of the following:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Comply with such other qualifications as the director may fix by rule.

SEC. 393. Section 7528 of the Business and Professions Code is amended to read:

7528. After a hearing the director may deny a license unless the applicant makes a showing satisfactory to the director that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers and

partners have not:

(a) Committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Been refused a license under this chapter or had a license revoked.

(c) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(d) While unlicensed committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

SEC. 394. Section 7551 of the Business and Professions Code is amended to read:

7551. The director may suspend or revoke a license issued under this chapter if he determines that the licensee or his manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the director adopted pursuant to the authority contained in this chapter.

(d) Been convicted of any crime substantially related to the qualifications, functions and duties of the holder of the registration or license in question.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.

(k) Committed any act which is a ground for denial of an application for license under this chapter.

(*l*) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the director.

SEC. 395. Section 7555 of the Business and Professions Code is amended to read:

7555. As used in this article, "presiding officer" means the executive officer of the Office of Administrative Hearings.

SEC. 396. Section 7555.6 of the Business and Professions Code is amended to read:

7555.6. The director, or if the proceeding is heard before a hearing officer of the Office of Administrative Hearings, such hearing officer, may order such postponements or continuances and grant such extensions of time as may be necessary to afford the licensee reasonable opportunity to defend the proceeding. In no event shall the licensee have less than 30 days after the date of service of the accusation in which to file a notice of defense, nor shall the notice of hearing provided for in Section 11509 of the Government Code or the notice and copy of affidavit referred to in Section 11514 of said code be mailed or delivered less than 20 days prior to the date of hearing, and the time for making a request to cross-examine under said Section 11514 shall not be less than 15 days.

SEC. 397. Section 7603 of the Business and Professions Code is amended to read:

7603. Members of the board shall be appointed for a term of four years and they shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.

Vacancies occurring shall be filled by appointment for the unexpired term.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 398. Section 7619 of the Business and Professions Code is amended to read:

7619. The applicant, or in case the applicant is an association, partnership or corporation, the officer or partner appearing therefor, shall be at least 18 years of age and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 399. Section 7620 of the Business and Professions Code is amended to read:

7620. The application shall specify the address at which the applicant proposes to engage in or conduct a place of business as a funeral director.

SEC. 400. Section 7625 of the Business and Professions Code is

amended to read:

7625. Upon receipt of an application for a license, the board shall cause an investigation to be made of the physical status or plans and specifications of the proposed funeral establishment, and of the other qualifications required of the applicant under this chapter, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

The board shall grant a license if it finds that the proposed funeral establishment is or will be constructed and equipped as required by this chapter and that the applicant is qualified in all other respects as required by this chapter.

SEC. 401. Section 7626 of the Business and Professions Code is amended to read:

7626. The board shall examine and pass upon the qualifications of the applicant as to ability and experience before passing upon the physical status or plans and specifications of the proposed funeral establishment.

SEC. 402. Section 7631 of the Business and Professions Code is amended to read:

7631. In case of the death of a licensed funeral director, who leaves an established business as part or all of the assets of his estate, the board may issue a special temporary license to his legal representative, unless the legal representative has committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 403. Section 7634 of the Business and Professions Code is amended to read:

7634. Notwithstanding any other provision of law, a licensed embalmer may enucleate the eyes of dead human bodies for purposes specified in, and pursuant to, the provisions of the Uniform Anatomical Gift Act (Ch. 3.5 (commencing with Section 7150), Pt. 1, Div. 7, H. & S.C.), if such embalmer has completed a course in eye enucleation approved by the Board of Medical Quality Assurance of the State of California.

SEC. 404. Section 7642 of the Business and Professions Code is amended to read:

7642. An application for an embalmer's license shall be written on a form provided by the board, verified by the applicant, and accompanied by the fee fixed by this chapter.

SEC. 405. Section 7643 of the Business and Professions Code is amended to read:

7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he may furnish the board with evidence that he has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his application in any other

state or country and that such license has never been suspended or revoked for unethical conduct.

(d) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the board and while so apprenticed shall have assisted in embalming or otherwise preparing for disposition not less than 100 human dead bodies; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.

(e) Have successfully completed a course of instruction of not less than nine months which embraces the subjects specified in Section 7646 of this code, in an embalming school approved by the board.

SEC. 406. Section 7662 of the Business and Professions Code is amended to read:

7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he may furnish the board with evidence that he has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his application in any other state or country and that such license has never been suspended or revoked for unethical conduct.

SEC. 407. Section 7668 of the Business and Professions Code is amended to read:

7668. The board may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, where the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his apprenticeship.

(b) Failure to make any report required by law to the board.

(c) Absence from duty except as provided in this code.

(d) Being on duty as an apprentice while under the influence of liquor.

(e) Disobedience of proper orders or instructions of his superior.

(f) Violation of any provision of this chapter or any rule or regulation of the board.

(g) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(i) Conviction of a crime substantially related to the

qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

SEC. 408. Section 7691 of the Business and Professions Code is amended to read:

7691. Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

SEC. 409. Section 7698 of the Business and Professions Code is repealed.

SEC. 410. Section 7708 of the Business and Professions Code is amended to read:

7708. The board, after a hearing, may deny the application of a funeral director, embalmer, or apprentice embalmer on proof that the applicant has committed acts or crimes constituting grounds for denial of licensure under Section 480. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

SEC. 411. Section 7725.2 of the Business and Professions Code is amended to read:

7725.2. Except as otherwise provided in this article, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7725 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within one year following its expiration, the board may require as a condition of renewal that the holder of the license pass an examination on the appropriate subjects provided by this chapter.

SEC. 412. Section 7812 of the Business and Professions Code is repealed.

SEC. 413. Section 7813 of the Business and Professions Code is repealed.

SEC. 414. Section 7814 of the Business and Professions Code is amended to read:

7814. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever

first occurs. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of geologist and geophysicist representation, occurring in the office of a member who is a geologist or geophysicist.

SEC. 415. Section 7823 of the Business and Professions Code is amended to read:

7823. The board shall have the authority to appoint committees as required or as deemed advisable to perform such duties as the board may direct. Such committees shall be composed of persons registered under this chapter.

Membership on all such committees is at the pleasure of the board.

No member of any such committee shall receive any other compensation than his necessary expenses, as approved by the board, connected with the performance of his duties as a member of any such committee.

SEC. 416. Section 7841 of the Business and Professions Code is amended to read:

7841. An applicant for registration as a geologist shall have all the following qualifications:

(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Meet one of the following educational requirements fulfilled at a school or university whose geological curricula meet criteria established by rules of the board:

(1) Graduation with a major in geology.

(2) Completion of 30 semester units in geological science courses leading to a major in geology, of which at least 24 units are in the third or fourth year, or graduate courses.

(c) Have at least seven years of professional geological work which shall include either a minimum of three years of professional geological work under the supervision of a registered geologist or a registered civil or petroleum engineer, except that prior to July 1, 1970, professional geological work shall qualify under this subdivision if it is under the supervision of a qualified geologist or a registered civil or petroleum engineer, or a minimum of five years' experience in responsible charge of professional geological work. Professional geological work does not include routine sampling, laboratory work, or geological drafting.

Each year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geological sciences at college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of third or fourth year or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of four years towards meeting the requirement for at least seven years of professional geological work as set forth above.

The ability of the applicant shall have been demonstrated by his having performed the work in a responsible position, as the term "responsible position" is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination.

SEC. 417. Section 7841.1 of the Business and Professions Code is amended to read:

7841.1. An applicant for registration as a geophysicist shall have all of the following qualifications. This section shall not apply to applicants for registration as geologists.

(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Meet one of the following educational requirements fulfilled at a school or university whose curricula meet criteria established by rules of the board.

(1) Graduation with a major in a geophysical science or any other discipline which in the opinion of the board is relevant to geophysics.

(2) Completion of a combination of at least 30 semester hours, in courses which in the opinion of the board are relevant to geophysics. At least 24 semester hours, or the equivalent, shall be in the third or fourth year, or graduate courses.

(c) Have at least seven years of professional geophysical work which shall include either a minimum of three years of professional geophysical work under the supervision of a registered geophysicist, except that prior to July 1, 1973, professional geophysical work shall qualify under this subdivision if it is under the supervision of a qualified geophysicist, or a minimum of five years' experience in responsible charge of professional geophysical work. Professional geophysical work does not include the routine maintenance or operation of geophysical instruments, or, even if carried out under the responsible supervision of a professional geophysicist, the routine reduction or plotting of geophysical observations.

Each year of undergraduate study in the geophysical sciences referred to in this section shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geophysical sciences referred to in this section at a college level shall be credited year for year toward meeting the

requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of third or fourth year or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of four years towards meeting the requirements for at least seven years of professional geophysical work as set forth above.

The ability of the applicant shall have been demonstrated by his having performed the work in a responsible position, as the term "responsible position" is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination.

SEC. 418. Section 7843 of the Business and Professions Code is repealed.

SEC. 419. Section 7843.1 of the Business and Professions Code is repealed.

SEC. 420. Section 7860 of the Business and Professions Code is amended to read:

7860. The board may receive and investigate complaints against registered geologists, and geophysicists and persons granted temporary authorizations pursuant to Sections 7848 and 7848.1 and make findings thereon.

By a majority vote, the board may reprove, privately or publicly, or may suspend for a period not to exceed two years, or may revoke the certificate of any geologist or geophysicist registered hereunder, or may reprove, privately or publicly, or revoke the authorization granted to any person pursuant to Section 7848 or 7848.1:

(a) Who has been convicted of a crime substantially related to the qualifications, functions and duties of a geologist and geophysicist.

(b) Who has committed any deceit, misrepresentation, violation of contract, fraud or incompetency in his practice.

(c) Who has committed any fraud or deceit in obtaining his certificate.

(d) Who aids or abets any person in the violation of any provisions of this chapter.

(e) Who violates any provision of this chapter.

SEC. 421. Section 7863 of the Business and Professions Code is amended to read:

7863. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a geologist or geophysicist is deemed to be a conviction within the meaning of this article. The board may order the certificate or authorization suspended or revoked, or may decline to issue a certificate or authorization, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a

subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 422. Section 7884 of the Business and Professions Code is amended to read:

7884. Certificates of registration as a geologist or as a geophysicist or certified specialty certificates which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of such certificate may apply for and obtain a new certificate, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He takes and passes the examination, if any, which would be required of him if he were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

SEC. 423. Section 7887 of the Business and Professions Code is amended to read:

7887. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a geologist or a geophysicist at not more than forty dollars ($40).

(b) The registration fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates which will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The duplicate certificate fee at not more than three dollars ($3).

(d) The temporary registration fee for a geologist or for a geophysicist at not more than forty dollars ($40).

(e) The renewal fee for a geologist or for a geophysicist shall be fixed by the board at not more than eighty dollars ($80).

(f) The renewal fee for a specialty geologist or for a specialty geophysicist at not more than ten dollars ($10).

(g) The delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the date of its expiration, but not more than twenty-five dollars ($25).

SEC. 424. Section 8001 of the Business and Professions Code is

repealed.

SEC. 425. Section 8001.5 of the Business and Professions Code is amended and renumbered to read:

8001. Appointment as a member of the board shall be for a term of four years. Members of the board shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a holder of a certificate issued under this chapter.

SEC. 426. Section 8020 of the Business and Professions Code is amended to read:

8020. Any person over the age of 18 years, who has not committed any acts or crimes constituting grounds for denial of licensure under Section 480, who has a high school education or its equivalent as determined by the board, and who has satisfactorily passed an examination under such regulations as the board may prescribe shall be entitled to a certificate and shall be styled and known as a certified shorthand reporter. No person shall be admitted to the examination unless he first presents satisfactory evidence to the board that within the five years immediately preceding the date his application for a certificate is filed with the board he has obtained one of the following:

(a) One year of experience in making verbatim records of meetings, conferences, hearings, or judicial or related proceedings by means of written symbols or abbreviations in shorthand or machine writing and transcribing such records.

(b) A passing grade on the National Shorthand Reporters Association School graduation test.

(c) A verified certificate of satisfactory completion of a prescribed course of study in a recognized court reporting school or certificate from any such school evidencing equivalent proficiency and of the ability to make a verbatim record of material dictated in accordance with regulations adopted by the board contained in Title 16 of the Administrative Code.

(d) National Shorthand Reporters Association certificate of proficiency or certificate of merit.

(e) A passing grade on the California state hearing reporters examination.

(f) A valid certified shorthand reporters certificate or license to practice shorthand reporting issued by a state other than California.

SEC. 427. Section 8024.2 of the Business and Professions Code is amended to read:

8024.2. Except as otherwise provided in this article, a certificate

which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the certificate is not renewed within 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 8024 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 428. Section 8025 of the Business and Professions Code is amended to read:

8025. A certificate issued under this chapter may be suspended or revoked for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross incompetency in practice, or unprofessional conduct.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract.

SEC. 429. Section 8026 of the Business and Professions Code is amended to read:

8026. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a certified shorthand reporter is deemed to be a conviction within the meaning of this article.

The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 430. Section 8522 of the Business and Professions Code is amended to read:

8522. Members of the board shall be appointed by the Governor for a term of four years, subject to removal by him at his pleasure.

Vacancies shall be filled by the Governor for the unexpired term.

Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 431. Section 8555 of the Business and Professions Code is amended to read:

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the State Railroad Commission, except to work performed upon property of such utilities not subject to the jurisdiction of the Railroad Commission or work done by said utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the State Department of Food and Agriculture or a county agricultural commissioner.

(c) Pest control performed by persons upon property which they own, lease or rent, except that such persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of any educational institution or state agency engaged in research or study of pest control.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

SEC. 432. Section 8564 of the Business and Professions Code is amended to read:

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him.

(c) The name of the person by whom the applicant is employed.

(d) The name of the operator by whom the applicant is to be employed.

(e) The fees prescribed by this chapter.

If the applicant qualifies therefor, the board shall issue to him a license as a field representative in the branch of pest control for which he has qualified.

The board shall not accept any application for a field representative license in branch 1 unless the applicant submits proof satisfactory to the board that he has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of a person licensed to practice fumigating, or the equivalent of such training and experience.

SEC. 433. Section 8568 of the Business and Professions Code is amended to read:

8568. After a hearing the board may deny a license unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers, directors, employees, members and partners have not:

(a) Committed any act or crime constituting grounds for denial of licensure under Section 480.

(b) While unlicensed, knowingly committed or aided and abetted the commission of any act for which a license is required under this chapter.

(c) While acting as a partner, officer, or managing employee of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license.

When a hearing is held under this section it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

SEC. 434. Section 8647 of the Business and Professions Code is amended to read:

8647. Failure to comply in the sale or use of insecticides with the provisions of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is a ground for disciplinary action.

SEC. 435. Section 8649 of the Business and Professions Code is amended to read:

8649. Conviction of a crime substantially related to the qualifications, functions and duties of a structural pest control operator or field representative is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

SEC. 436. Section 8655 of the Business and Professions Code is amended to read:

8655. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a structural pest control

operator or field representative is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 437. Section 8657 of the Business and Professions Code is amended to read:

8657. The appointment of a receiver of the property of a licensee as provided in Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, or the making of an assignment for the benefit of creditors as provided in Title 3 (commencing with Section 3449) of Part 2 of Division 4 of the Civil Code constitutes a cause for disciplinary action.

If a license is suspended or revoked upon the grounds set forth in this section, the registrar in his discretion may renew or reissue such license upon the condition that each contract undertaken by the licensee be separately covered by a bond or bonds conditioned upon the performance of, and the payment of labor and material required by, the contract.

SEC. 438. Section 8675 of the Business and Professions Code is amended to read:

8675. The fee for a renewal of any license and any branch office registration issued under this chapter applied for after the expiration date of the license or branch office registration shall be 50 percent of the fee required for the renewal of such license or registration applied for before such expiration date but not more than twenty-five dollars ($25).

SEC. 439. Section 8780 of the Business and Professions Code is amended to read:

8780. By a majority vote, the board may suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, whom it finds to be guilty of:

(a) Any fraud, deceit, negligence, or incompetency in his practice of land surveying.

(b) Any fraud or deceit in obtaining his license.

(c) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.

(d) Any conviction of a crime substantially related to the qualifications, functions and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.

(e) Aiding or abetting any person in the violation of any provision

of this chapter.

(f) A breach of contract in connection with the practice of land surveying.

SEC. 440. Section 8783 of the Business and Professions Code is amended to read:

8783. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a land surveyor is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 441. Section 8802 of the Business and Professions Code is amended to read:

8802. Except as otherwise provided in this article, licenses issued under this chapter may be renewed at any time within five years after expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 8801 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A license which expired on or before June 30, 1960, and was not renewed before July 1, 1961, may not be renewed, restored, reissued, or reinstated, but the licensee may apply for and obtain a new license if he meets the requirements set forth in Section 8803.

SEC. 442. Section 8803 of the Business and Professions Code is amended to read:

8803. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may apply for and obtain a new license, however, if:

(a) He has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) He pays all of the fees which would be required of him if he were then applying for the license for the first time, and

(c) He takes and passes the examination, if any, which would be

required of him if he were then applying for the license for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to engage in the practice of land surveying.

The board may, by appropriate regulation, authorize the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

SEC. 443. Section 9003 of the Business and Professions Code is amended to read:

9003. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of professional representation, occurring in the office of a member who is a social worker or marriage, family and child counselor.

SEC. 444. Section 9005 of the Business and Professions Code is amended to read:

9005. The board shall appoint an executive secretary, which position is hereby designated as a confidential position and exempt from civil service under subdivision (e) of Section 4 of Article XXIV of the Constitution.

The executive secretary shall have the same qualifications required of a member of the board, and shall serve at its pleasure.

SEC. 445. Section 9028 of the Business and Professions Code is amended to read:

9028. The board may suspend or revoke the certificate of any registrant if:

(a) He is convicted of an offense substantially related to the qualifications, functions and duties of a social worker.

(b) He uses intoxicating liquor or narcotic or hypnotic drugs to such an extent that in his activities as a social worker he is likely to endanger the health, welfare, or safety of the public.

(c) He is declared insane or incompetent.

(d) He advocates the overthrow of the government by force and violence or other unlawful means.

(e) He has committed a dishonest or fraudulent act as a social worker resulting in substantial injury to another.

SEC. 445.5. Section 9036 of the Business and Professions Code is amended to read:

9036. Every registration which has not been renewed on or before the last day of March of each calendar year shall be considered delinquent and a delinquency fee of five dollars ($5) shall be added to the renewal fee. Any person who permits the registration to become delinquent may have the registration restored only upon the

payment of the renewal fee plus the delinquency fee. No registered social worker who permits the registration to become delinquent for more than three years may have his registration restored without a written examination, the scope of which shall be determined by the board.

SEC. 446. Section 9042 of the Business and Professions Code is amended to read:

9042. Each applicant shall furnish evidence satisfactory to the board that he complies with all the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of full-time post-masters' experience, acceptable to the board, in the use of psychosocial and psychotherapeutic methods and measures in a hospital, clinic, or agency. One year of such experience shall have been in a hospital, clinic, or agency in which the applicant, under professional supervision or with professional consultation or both, has employed such methods or measures. The board may establish standards for equivalent means of meeting the requirements of this subdivision. Such standards shall insure that the performance of services authorized by Section 9047 by persons complying with such standards shall be done in a manner which protects the health and welfare of the persons receiving such services.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

SEC. 447. Section 9531 of the Business and Professions Code is amended to read:

9531. Members of the board shall be appointed for a term of four years, and they shall serve until the appointment and qualification of their successor, but in such case no member whose term of office has expired shall serve for a period longer than one year, unless reappointed to the board. No member shall serve more than two successive regular four-year terms.

Vacancies occurring shall be filled by appointment for the unexpired term. Before entering upon the duties of his office, each member of the board shall take and subscribe to the constitutional oath of office. A majority of the membership shall constitute a quorum for transacting any business of the board. A vacancy on the board shall not impair the right of the remaining members of the board to perform all duties and exercise the authority therein vested in the board. The Governor may remove a member for cause, and shall remove any member who ceases to be actively engaged in the drycleaning industry.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is licensed or registered by the board.

SEC. 448. Section 9537 of the Business and Professions Code is

repealed.

SEC. 449. Section 9540 of the Business and Professions Code is amended to read:

9540. No person shall establish or operate a clothes cleaning establishment, a dyeing plant, a spotting and pressing shop or store, a press shop or store, a drycleaning agency, a hat renovating establishment, a fur renovating establishment, or a school or college of cleaning or dyeing or both cleaning and dyeing, spotting or pressing, without first obtaining a license to do so from the board. Before a license may be issued, such person shall file at the board's principal office, a written application, upon a form prescribed by the board, accompanied by the fee prescribed by this chapter for an investigation and examination. A person applying for a drycleaning agency license shall not be required to take the prescribed examination. The applicant shall submit with his application, evidence showing that:

1. He possesses competent knowledge of the particular branch of the industry in which he wishes to engage.

2. He has the ability and fitness therefor.

SEC. 450. Section 9540.2 of the Business and Professions Code is amended to read:

9540.2. An individual, a copartnership, a corporation, or any other combination or organization, may qualify in regard to his knowledge by the appearance of the managing employee, the managing officer or other member of the personnel of such applicant form.

If the individual qualifying by the examination of his experience and knowledge ceases, for any reason whatsoever, to be connected with the licensee to whom the license is issued, or if any individual who has been denied a license, or who has had a license revoked, or whose license is under suspension, or who has failed to renew his license while it was under suspension, or has been a member, officer, director, associate, managing employee or responsible managing officer of any partnership, corporation, firm or association whose application for a license has been denied, or whose license has been revoked, or whose license is under suspension, or who has failed to renew its license while it was under suspension, shall in any way become associated with a licensee as a partner, member, officer, director, associate, or managing employee, the licensee shall notify the board in writing within 10 days from such cessation, association or employment. If a notice is given the license shall remain in force for a reasonable length of time to be determined by the rules of the board.

If the licensee fails to notify the board within the 10-day period, at the end of the period his license shall be ipso facto suspended. The license shall be reinstated upon the filing of an affidavit, executed by the licensee or a member of the licentiate firm and filed with the board, to the effect that the person originally appearing for examination on behalf of the licensee has been replaced by another individual and that this individual has been qualified by examination

and that he has not had his license suspended or revoked or that he has not been connected with a licensee who has had his license suspended or revoked for reasons that would preclude this individual from personally qualifying for licensure.

SEC. 451. Section 9540.3 of the Business and Professions Code is amended to read:

9540.3. An applicant, and each officer, director, partner, and associate thereof, shall not have committed any act or crime constituting grounds for denial of licensure under Section 480.

SEC. 452. Section 9544.1 of the Business and Professions Code is amended to read:

9544.1. Notwithstanding any other provision of this code, the holder of a current valid license under this chapter who has entered or enters the armed forces of the United States may designate a responsible managing person or persons to act for him while in the armed forces and until one year after his discharge therefrom, after which time the authority to so act for the licensee shall terminate. The renewal fee shall be paid for any such licensee so designating others to act for him.

Any license shall remain in full force and effect for 30 days after the entrance of the licensee into the armed forces, but he shall, prior to the expiration of such 30-day period, provide the board with the name or names of the persons so designated to conduct his business. The board may qualify such person in any manner which it may adopt. Persons so designated shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

Persons so designated committing any of the acts or crimes which would be grounds for denial of licensure under Section 480 shall be removed from the business of such licensee after a hearing as provided in this chapter.

SEC. 453. Section 9551.5 of the Business and Professions Code is amended to read:

9551.5. An applicant for a certificate of registration shall:

(a) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Demonstrate by examination that he possesses the knowledge and skills necessary to qualify him to act as a registered operator in the particular activity for which the certificate is sought.

SEC. 454. Section 9560 of the Business and Professions Code is amended to read:

9560. All registration certificates and all licenses other than school or college licenses expire at 12 p.m. on November 30 of each even-numbered year, if not, in each instance, renewed.

School and college licenses expire at 12 p.m. on September 30 of each year, if not renewed.

To renew an unexpired license or certificate, the holder thereof shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 455. Section 9561 of the Business and Professions Code is amended to read:

9561. Except as otherwise provided in this article, a license or certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last regular renewal date. If the license or certificate is not renewed within 30 days after its expiration, its holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the expiration date provided in Section 9560 which next occurs after the effective date of the renewal.

A license or certificate which expired before January 1, 1959, and was not renewed before January 1, 1962, may be renewed only if its holder takes and passes the examination which would be required of him if he were then applying for issuance of the license or certificate for the first time.

This section shall not be so construed as to permit renewal of a license or certificate of a class which has been abolished.

SEC. 456. Section 9564 of the Business and Professions Code is amended to read:

9564. A person who fails to renew his license or certificate within five years after its expiration may not renew it, and it may not be restored, reinstated, or reissued thereafter. Such person may apply for and obtain a new license or certificate of the same class as the expired license or certificate if:

(1) He has not committed acts or crimes constituting grounds for denial of a license or certificate under Section 480,

(2) No fact, circumstance, or condition exists which, if the license or certificate were issued, would justify its revocation or suspension,

(3) He pays all of the fees which would be required of him if he were then applying for the license or certificate for the first time,

(4) He takes and passes the examination, if any, which would be required of him if he were then applying for the license or certificate for the first time, and

(5) The class of license or certificate for which he applies has not been abolished.

SEC. 457. Section 9580 of the Business and Professions Code is amended to read:

9580. The amount of the fees prescribed by this chapter relating to clothes cleaning establishment licenses and clothes dyeing establishment licenses is that fixed by the following schedule:

(a) The fee for an application for examination shall be twenty dollars ($20).

(b) The renewal fee is one hundred twenty-six dollars ($126).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The initial license fee is one hundred twenty-six dollars ($126) if the license is issued not less than one year before the date on which it will expire, and sixty-three dollars ($63) if the license is issued less than one year before the date on which it will expire. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

SEC. 458. Section 9581 of the Business and Professions Code is amended to read:

9581. The amount of the fees prescribed by this chapter relating to school or college licenses is as follows:

(a) The fee for an application for examination is twenty dollars ($20).

(b) The annual license fee is two hundred fifty dollars ($250).

(c) The delinquency fee is twenty-five dollars ($25).

SEC. 459. Section 9625 of the Business and Professions Code is amended to read:

9625. There is in the department a Cemetery Board which consists of six members, including four members representing the public at large. The members shall be appointed by the Governor and confirmed by the Senate.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is not a public member.

SEC. 460. Section 9626.5 of the Business and Professions Code is amended to read:

9626.5. Each member of the board shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

SEC. 461. Section 9700 of the Business and Professions Code is amended to read:

9700. Application for license as a cemetery broker shall be made in writing on the form prescribed by the board and filed at the principal office of the board. The application shall be accompanied by the original cemetery broker's license fee.

SEC. 462. Section 9701 of the Business and Professions Code is amended to read:

9701. Application for license as a cemetery salesman shall be made in writing on the form prescribed by the board and filed at the principal office of the board. The application shall be signed by the applicant, and shall be accompanied by the original cemetery salesman's license fee.

SEC. 463. Section 9702 of the Business and Professions Code is

repealed.

SEC. 464. Section 9702.1 of the Business and Professions Code is amended to read:

9702.1. The board shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the license applied for to an applicant on a showing satisfactory to it that the following facts exist:

(a) The applicant is properly qualified to perform the duties of a cemetery broker or salesman.

(b) Granting the license will not be against public interest.

(c) The applicant intends actively and in good faith to carry on the business of a cemetery broker or a cemetery salesman.

(d) In the case of a corporate applicant, the articles of incorporation permit it to act as a cemetery broker.

(e) In the case of an association or copartnership applying for such a license its articles of association or agreement of partnership authorize it to act as a cemetery broker.

(f) The license is not being secured for the purpose of permitting the applicant to advertise as a cemetery broker or salesman without actually engaging in such business.

(g) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 465. Section 9702.5 of the Business and Professions Code is amended to read:

9702.5. The board shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent or member thereof through whom it proposes to act as a cemetery licensee has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of:

(1) Cemetery associations, cemetery corporations and duties of directors.

(2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.

(3) Establishing, dedicating, maintaining, managing, operating, improving and conducting a cemetery.

(4) The care, preservation and embellishment of cemetery property.

(5) The care and preservation of endowment care funds, trust funds, and the investment thereof.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of cemetery brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this act relating to cemetery brokerage.

SEC. 466. Section 9717 of the Business and Professions Code is amended to read:

9717. (a) The board shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge

and experience and financial responsibility for applicants for certificates of authority. In reviewing an application for a certificate of authority, the board may consider acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a certificate of authority under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a certificate of authority, the board may cause an investigation to be made of the physical status, plans, specifications and financing of the proposed cemetery, and any other qualifications required of the applicant under this act, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this section, the applicant shall pay to the Cemetery Fund the sum fixed by the board at not in excess of four hundred dollars ($400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars ($900).

SEC. 467. Section 9727 of the Business and Professions Code is amended to read:

9727. The board may suspend or revoke the license of any cemetery licensee who, within three years immediately preceding has done any of the following:

(a) Been convicted of a crime substantially related to the qualifications, functions and duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business or any cemetery property offered for sale.

(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery brokerage.

(d) Acted or conducted himself in a manner which would have warranted the denial of his application for a cemetery license, or for a renewal thereof.

SEC. 468. Section 9731 of the Business and Professions Code is amended to read:

9731. If a person fails to apply for a renewal of his license prior to midnight of June 30th of the year for which the license was issued, no renewal license shall be issued to him except upon payment of the renewal fee for such license plus 50 percent of the renewal fee, but not more than the renewal fee plus twenty-five dollars ($25.)

No person who fails to renew his license within one year of the expiration date can engage in any of the activities authorized by such a license unless he first files the application required for an original license, pays the original license fee, and otherwise complies with all

of the provisions of this act pertaining to the issuance of an original license.

SEC. 469. The heading of Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code is amended to read:

CHAPTER 20. ELECTRONIC AND APPLIANCE REPAIR DEALERS

SEC. 470. Section 9801 of the Business and Professions Code is amended to read:

9801. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Person" includes firm, partnership, association or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Electronic and Appliance Repair.

(e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair.

(f) "Board" means the Electronic and Appliance Repair Advisory Board.

(g) "Service dealer" means a person who, for compensation, engages in the business of repairing, servicing, or maintaining television, radio, or audio or video recorders, or playback equipment, normally used or sold for use in the home or in private motor vehicles, or any appliances. "Service dealer" also means a person who, for compensation, engages in the business of installing, repairing, servicing, or maintaining television or radio receiver antennas or rotators located on or adjacent to a residence and not involving a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000) of Division 3.

(h) "Equipment" for the purposes of this chapter means a set, appliance, antenna, rotator, and accessories.

(i) "Set" means any television, radio, or audio or video recorders or playback equipment normally used or sold for use in the home or in private motor vehicles.

(j) "Appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, or room air conditioner normally used or sold for use in the home.

(k) "Antenna" or words of like import, means a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by commercial radio or television stations operating in the VHF or UHF portions of the frequency spectrum. An antenna, and its associated accessories, is not deemed to be a part of a set, and shall be considered, under this section, to be located outside or in the attic of a residence.

(*l*) "Rotator," when used in connection with an antenna installation or repair, means an electromechanical device operated

from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories is not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

(m) "Accessories," when used in connection with an antenna or rotator installation or repair, means masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts, chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and such other devices as may be used from time to time to effect such installation or repair.

(n) "Complainant" means the customer of a service dealer who has complained to the director concerning such service dealer.

SEC. 471. Section 9802 of the Business and Professions Code is amended to read:

9802. This chapter does not apply to:

(a) Any employee of a service dealer if the employee repairs, services, or maintains television, radio, or audio or video recorder or playback equipment normally used or sold for use in the home or in private motor vehicles, or appliances, for compensation only as such an employee.

(b) The repair, service, or maintenance of equipment used in commercial, nonresidential, industrial, or governmental establishments.

(c) The repair, services, or maintenance of equipment the ordinary and usual use of which requires a license or permit issued by the Federal Communications Commission.

SEC. 472. Section 9810 of the Business and Professions Code is amended to read:

9810. There is in the Department of Consumer Affairs a Bureau of Electronic and Appliance Repair, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

The Governor shall appoint, subject to confirmation by the Senate, a chief of the bureau at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

Before a chief is appointed, the Governor shall give due consideration to any person or persons recommended by the board.

Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to such conditions and limitations as the director may prescribe.

Whenever the laws of this state refer to the Bureau of Electronic Repair Dealer Registration, the reference shall be construed to be to the Bureau of Electronic and Appliance Repair.

SEC. 473. Section 9817 of the Business and Professions Code is

amended to read:

9817. There is in the bureau an Electronic and Appliance Repair Advisory Board. It consists of nine members appointed by the Governor subject to confirmation by the Senate.

SEC. 474. Section 9819 of the Business and Professions Code is amended to read:

9819. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

The terms of the four members of the board appointed in accordance with the amendments to this section enacted at the 1972 Regular Session of the Legislature shall expire as follows: one member, January 15, 1974; one member, January 15, 1975; one member, January 15, 1976; and one member, January 15, 1977. The terms shall thereafter expire in the same relative order. Vacancies occurring shall be filled by appointment to the unexpired term.

SEC. 475. Section 9831 of the Business and Professions Code is amended to read:

9831. Upon receipt of the form properly filled out and receipt of the required fee, the director shall, provided the applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480, validate the registration and send a proof of such validation to the service dealer. The director shall by regulation prescribe conditions upon which a person whose registration has previously been invalidated or has previously been refused validation, may have his registration validated.

SEC. 476. Section 9832.1 of the Business and Professions Code is amended to read:

9832.1. To renew a valid registration, the service dealer shall, prior to the applicable date specified in Section 9832, apply for renewal on a form prescribed by the director and pay the renewal fee prescribed by this chapter. To renew a registration which is delinquent less than two years the service dealer shall apply for renewal on a form prescribed by the director, pay the renewal fee in effect on the last regular renewal date, and, if the registration is renewed more than 30 days after it ceased to be valid, pay the delinquency fee prescribed by this chapter. A registration which is delinquent more than two years may not be renewed. A service dealer with such a delinquent registration must reapply for registration. Renewal shall be effective on the date on which the application is filed, the date on which the renewal fee is paid, or the date on which the delinquency fee, if any, is paid, whichever last occurs.

SEC. 477. Section 9840 of the Business and Professions Code is amended to read:

9840. It shall be unlawful to act as a service dealer without first having registered in accordance with the provisions of this chapter

and unless such registration is currently valid.

SEC. 478. Section 9841 of the Business and Professions Code is amended to read:

9841. (a) The director may refuse to validate, or may invalidate temporarily or permanently the registration of a service dealer for any of the following acts or omissions done by himself or any employee, partner, officer, or member of the service dealer and related to the conduct of his business:

(1) Making or authorizing any statement or advertisement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of the equipment covered by this chapter.

(3) Acting for more than one customer in a transaction without the knowledge or consent of all parties thereto.

(4) Any other conduct which constitutes fraud or dishonest dealing.

(5) Conduct constituting gross negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations thereunder.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect which is prejudicial to another without consent of the owner or his duly authorized representative.

(8) Conviction of a crime which has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(b) The director may also refuse to validate, or may invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may, also refuse to validate, or may, invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been revoked and who will still have some involvement in the applicant's or new registrant's business.

SEC. 479. Section 9853 of the Business and Professions Code is amended to read:

9853. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a service dealer is deemed to be a conviction within the meaning of this article. The director may order the registration temporarily or permanently invalidated, or may decline to issue a registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the

imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 480. Section 9870 of the Business and Professions Code is amended to read:

9870. All fees collected pursuant to this chapter shall be paid into the State Treasury to the credit of the Electronic and Appliance Repair Fund, which fund is hereby created.

SEC. 481. Section 9871 of the Business and Professions Code is amended to read:

9871. The director shall report to the State Controller at the beginning of each month, for the month preceding, the amount and source of all revenue received by the bureau pursuant to this chapter, and at that time shall pay the entire amount thereof into the State Treasury for credit to the Electronic and Appliance Repair Fund.

SEC. 482. Section 9872 of the Business and Professions Code is amended to read:

9872. The money in the Electronic and Appliance Repair Fund necessary for the administration of this chapter is hereby continuously appropriated for such purposes. Money in excess of a year and a half's operating cost shall be transferred to the General Fund from the Electronic and Appliance Repair Fund.

SEC. 484. Section 9874 of the Business and Professions Code is amended to read:

9874. All salaries, expenses, or costs incurred or sustained pursuant to this chapter shall be payable only out of the Electronic and Appliance Repair Fund.

SEC. 485. Section 9882.8 of the Business and Professions Code is amended to read:

9882.8. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring shall be filled by appointment to the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms.

SEC. 486. Section 9886.3 of the Business and Professions Code is amended to read:

9886.3. The fees prescribed by this chapter shall be set by the director in an amount estimated to provide for the administration of this chapter within the limits of the following schedule:

(a) The automotive repair dealer registration fee is not less than twenty-five dollars ($25), nor more than fifty dollars ($50), for each place of business in this state.

(b) The annual renewal fee for an automotive repair dealer registration shall not be more than fifty dollars ($50) for each place of business in this state, if renewed prior to its expiration date.

(c) The renewal fee for a registration that is not renewed prior to its expiration date shall be 1½ times the renewal fee required for a registration renewal prior to its expiration date, but not more than the renewal fee plus twenty-five dollars ($25).

SEC. 487. Section 9889.2 of the Business and Professions Code is amended to read:

9889.2. The director may deny a license if the applicant or any partner, officer, or director thereof:

(a) Fails to meet the qualifications established by the bureau pursuant to Articles 5 and 6 of this chapter for the issuance of the license applied for.

(b) Was previously the holder of a license issued under this chapter which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act which, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.

(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefited.

(e) Has acted in the capacity of a licensed person or firm under this chapter without having a license therefor.

(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of a crime substantially related to the qualifications, functions and duties of the license holder in question, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 488. Section 9889.3 of the Business and Professions Code is amended to read:

9889.3. The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee or any partner, officer, or director thereof:

(a) Violates any section of the Business and Professions Code which relates to his licensed activities.

(b) Is convicted of any crime substantially related to the qualifications, functions and duties of the license holder in question.

(c) Violates any of the regulations promulgated by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

(e) Has misrepresented a material fact in obtaining a license.

(f) Aids or abets an unlicensed person to evade the provisions of this chapter.

(g) Fails to make and keep records showing his transactions as a licensee, or fails to have such records available for inspection by the director or his duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make such record available for inspection.

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he is licensed.

SEC. 489. Section 9890.2 of the Business and Professions Code is amended to read:

9890.2. "Nursing service" means the assignment of a nurse, as a private duty, self-employed, licensed registered nurse, licensed vocational nurse, or practical nurse to render service to a patient under the direction or supervision of a physician or surgeon registered to practice in this state.

SEC. 490. Section 9890.4 of the Business and Professions Code is amended to read:

9890.4. "License" means a license issued by the bureau to carry on the function or business of a nurses' registry.

SEC. 491. Section 9890.51 of the Business and Professions Code is amended to read:

9890.51. A written application for a nurses' registry license shall be made to the bureau in the form prescribed thereby and shall include:

(a) The name and address of the applicant, or the names and addresses of each partner from applicant partnerships, or each officer, from applicant corporations.

(b) The full address of the building where the business of the nurses' registry is to be conducted.

(c) The business or occupation engaged in by the applicant for the past five years preceding the date of application.

(d) The proposed name of the nurses' registry. The bureau shall reject any proposed name which is the same or similar to that of a licensed nurses' registry. When such name is used on any sign, advertising or promotional material, the entire name as shown on the license shall be used.

(e) Such questions and information as will assure the bureau of the applicant's eligibility to hold a license.

SEC. 492. Section 9890.52 of the Business and Professions Code is amended to read:

9890.52. Upon receipt of an application for a license, the bureau shall cause an investigation to be made as to the eligibility for a license of the applicant, and of the premises designated in such application as the place in which it is proposed to conduct the business or functions of a nurses' registry.

SEC. 493. Section 9890.53 of the Business and Professions Code is amended to read:

9890.53. To be eligible for application for a license, the applicant shall show financial responsibility, and the applicant, or one partner of a partnership, or one officer of a corporation shall have all the following:

(a) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Be at least 18 years of age.

(c) Be a person whose license in any field of endeavor has not been revoked within five years from the date of application.

(d) Be a person with a minimum of two years' experience in personnel work or equivalent experience as determined by the bureau.

(e) Be a person who has completed the 12th grade, except that the bureau may establish proof satisfactory to them that the applicant is possessed of a 12th grade education in point of intellectual competency and achievement.

SEC. 494. Section 9890.54 of the Business and Professions Code is amended to read:

9890.54. If upon completion of the investigation, the bureau determines that the applicant is eligible for a license, the bureau shall issue a license to conduct a nurses' registry. A decision shall be given within 90 days from the date of receipt of the application by the bureau.

SEC. 495. Section 9890.57 of the Business and Professions Code is amended to read:

9890.57. Each license issued shall expire on the 31st day of March following the date of issuance, unless sooner revoked by the bureau, and may be renewed each year upon the filing of an application of renewal. Failure to renew a license on or before March 31st of each year shall constitute an automatic suspension of the license until the license is renewed. A person whose license is suspended pursuant to this section, shall not carry on the business of a nurses' registry during the period of suspension.

SEC. 496. Section 9890.61 of the Business and Professions Code is amended to read:

9890.61. Applications for renewal of a nurses' registry license shall state all the following:

(a) The names and addresses of all persons financially interested as required in the primary application.

(b) The names and addresses of all persons who are authorized by the nurses' registry to accept orders to assign, to discontinue or to consummate contracts with the nurses, doctors, hospitals, and the patients, either in writing or by phone.

SEC. 497. Section 9890.62 of the Business and Professions Code is repealed.

SEC. 498. Section 9890.90 of the Business and Professions Code is amended to read:

9890.90. Nurses' registries may enter into a continuing contract with private duty nurses covering the assignment of such nurses by

such nurses' registries. The continuing contract shall state:

(a) The name, address and telephone number of the nurses' registry.

(b) The name, address and telephone number of the nurse.

(c) The fee schedule of the nurses' registry currently on file with the bureau.

(d) The date of its execution by the nurses' registry and the nurse.

(e) The contract shall specify that the provisions thereof are to govern only the assignment of private duty nurses and shall:

(1) Designate the nurses' registry as the continuous agent of the nurse for purposes of assignment.

(2) Provide that the contract in effect may be terminated at any time by written notice given one to the other for any future assignment.

(3) Provide for delivery to the nurse at the time of the execution of the contract a written schedule of the rates of nurses' charges currently agreed to between the nurses' registry and the nurse for the nurses' services to the patient.

(4) State that the nurses' registry will immediately notify the nurse in writing of all subsequent changes in the rates to be charged the patient for services, and that the nurse shall agree to abide by these rates.

(5) Contain express undertakings by the nurses' registry that it shall continuously maintain true and correct records of orders and assignments as provided in this chapter.

(6) Provide that the nurses' registry shall periodically and at least once each month render to the nurse a written statement of all fees claimed to be due the nurses' registry, and further that such statement shall adequately identify each assignment as to the inception date and period of service covered by the claim, including the name of the patient and the amount of service fee claimed.

(7) Contain appropriate wording advising the nurse of his right to dispute the correctness of any service fee claimed by the nurses' registry in such written statement above referred to, and that in the absence of objections within a reasonable time, any such service fee may be presumed to be correctly charged.

(8) Include any other term, condition, or understanding agreed upon between the nurses' registry and the nurse.

SEC. 499. Section 9890.105 of the Business and Professions Code is amended to read:

9890.105. All actions brought in any court against the licensee to enforce the provisions of this chapter shall be brought in the name of the State of California.

SEC. 500. Section 9890.113 of the Business and Professions Code is amended to read:

9890.113. Acts or omissions constituting grounds for disciplinary action by the bureau shall include, but shall not be limited to:

(a) Engaging in unprofessional conduct.

(b) Obtaining a license by fraud, misrepresentation or mistake.

(c) Violations or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiracy to violate, any provision or term of this chapter.

(d) Making or giving any false statement or information in connection with the application for issuance of a license.

(e) Conviction of a crime substantially related to the qualifications, functions and duties of a holder of a nurse's registry license.

(f) Engaging in any other conduct, whether of the same, or different nature than specified in this section which constitutes fraud or dishonest dealing.

SEC. 501. Section 9890.120 of the Business and Professions Code is amended to read:

9890.120. The bureau shall receive and account for all fees and revenues derived from the operation of this chapter and at the end of each month, shall report such fees and revenues to the State Controller. These fees shall be deposited in the Nurses' Registry Fund, which fund is hereby created. The fees and revenues contained in this fund are continuously appropriated to the bureau to carry out the provisions of this chapter.

SEC. 502. Section 9890.121 of the Business and Professions Code is amended to read:

9890.121. The bureau shall charge the following fees:

(a) A filing fee of fifty dollars ($50) for each new application for a nurses' registry license.

(b) A filing fee of one hundred dollars ($100) for each new application for a branch license.

(c) A filing fee of fifty dollars ($50) for application to transfer or assign a license.

(d) A fee of not more than one hundred fifty dollars ($150) for the initial issuance, and for any renewal, of a nurses' registry license.

(e) A renewal fee of not more than seventy-five dollars ($75) for each nurses' registry branch license.

(f) A reinstatement fee of 150 percent of the renewal fee, but not more than twenty-five dollars ($25) in excess of the renewal fee.

SEC. 503. Section 9891.25 of the Business and Professions Code is amended to read:

9891.25. (a) The chief may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer for any of the following acts or omissions relating to preparing tax returns for others for a fee which are done by the tax preparer or any employee, representative, partner, agent, officer, or member of the tax preparer:

(1) Making, or authorizing the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(2) Obtaining the signature of a customer to a tax return or

authorizing document which contains blank spaces to be filled in after it has been signed.

(3) Failing or refusing to give a customer, for his own records, a copy of any document requiring his signature, within a reasonable time after the customer signs such document.

(4) Failing to maintain a copy of any tax return prepared for a customer for the applicable statutes of limitation periods.

(5) Engaging in any fraudulent conduct.

(6) Violating the advertising prohibitions set forth in this chapter.

(7) Failing to promptly report changes in the information required by Section 9891.20.

(8) Violating the provisions of Section 17530.5.

(9) Violating the provisions of Section 7216 of the Internal Revenue Code.

(10) Failing to post the proof of valid registration, supplied by the chief, in each tax preparer location.

(11) Failing to sign a customer's tax return as prescribed by the chief.

(b) In addition to the grounds specified in subdivision (a), the chief may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer if he enters a plea of guilty or nolo contendere to, or if he has been convicted of a crime which is substantially related to the qualifications, functions or duties of a tax preparer, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, or suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 504. Section 9891.42 of the Business and Professions Code is amended to read:

9891.42. The fees prescribed by this chapter shall be set by the chief in an amount estimated to provide for the administration of this chapter within the limits of the following schedule:

(a) The tax preparer registration fee shall be established by the chief at a sum not more than fifty dollars ($50).

(b) If a tax preparer maintains more than one tax preparer location within this state, an additional fee shall be established by the chief at a sum not more than fifty dollars ($50) for the principal location and ten dollars ($10) for each additional location.

(c) If a tax preparer has employees, representatives, partners, agents, officers or members who would be subject to registration under this chapter but for the exemption provided in Section 9891.1(a), an additional fee shall be established by the chief at a sum not more than:

(1) One hundred dollars ($100) if the tax preparer has less than 50 such persons.

(2) Five hundred dollars ($500) if the tax preparer has 50 or more

but less than 100 such persons.

(3) One thousand dollars ($1,000) if the tax preparer has 100 or more but less than 500 such persons.

(4) One thousand five hundred dollars ($1,500) if the tax preparer has 500 or more such persons.

(d) The fees provided for above shall be cumulative except that no tax preparer shall be required to pay more than one thousand five hundred dollars ($1,500) as a registration fee.

(e) The annual renewal fees for a tax preparer registration shall be established by the chief at amounts not to exceed the schedule for registration fees, if the registration is renewed prior to its expiration date.

(f) The penalty fee for renewal of a registration that is not renewed prior to its expiration date shall be the lesser of twenty-five dollars ($25) or 50 percent of the renewal fee required for a registration renewal prior to its expiration date.

SEC. 505. Section 9902 of the Business and Professions Code is amended to read:

9902. As used in this chapter, "employment agency" or "agency" means any of the following:

(a) The business of conducting, in any capacity, an intelligence office, employment agency, registry other than a nurses' registry as defined in Section 9890.6, or any agency, business or office which procures, offers, promises or attempts to procure employment or engagements for others or employees for employers, or for the registration of persons seeking to procure or retain employment or engagement, or for giving information as to where and from whom such help, employment or engagement may be procured, or for providing employment or engagements where a fee or other valuable consideration is exacted, or attempted to be collected, directly or indirectly, for such services, regardless of where such business is conducted.

(b) Any person, service, bureau, organization, club, résumé service, or employment counseling service, which by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(c) Any person who acts as a labor contractor.

(1) A labor contractor is any person, who, for a fee or other compensation, employs an individual to render personal services to, for or under the direction of a third person.

(2) "Bona fide employees" or "employees," when used with reference to the employees of a labor contractor, refers to the employees rendering services to the labor contractor and not to the individuals employed by the labor contractor to render personal services to, for or under the direction of a third person.

(3) A central hiring establishment, intelligence office, registry

other than a nurses' registry, agency or place maintained without cost to applicants for employment by groups of employers or groups of employers and employees, or a person licensed under Chapter 9 (commencing with Section 7000) of Division 3 of this code, does not constitute a labor contractor within the meaning of this chapter.

(4) A person employing individuals to render part-time or temporary personal services to, for or under the direction of a third person is not a labor contractor within the meaning of this chapter if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and sustains responsibility for the acts of his employees while rendering services to, for or under the direction of a third person, and has no applicant-paid liquidated damage clause. The person employing individuals to render part-time or temporary personal services shall not send the employees to any place where a strike, lockout or labor dispute exists.

SEC. 506. Section 9905 of the Business and Professions Code is amended to read:

9905. As used in this chapter, "license" means a license issued by the bureau to carry on the business of an employment agency.

SEC. 507. Section 9916 of the Business and Professions Code is repealed.

SEC. 508. Section 9929 of the Business and Professions Code is amended to read:

9929. Notwithstanding any other provision of this code, each member of a board shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Appointments to the board shall be made for a term of four years.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a licentiate of the board.

SEC. 509. Section 9942 of the Business and Professions Code is amended to read:

9942. A written application for an employment agency license shall be made to the bureau in the form prescribed by the bureau and shall include:

(a) The name and address of the applicant. The names and addresses of each partner, from applicant partnerships, and each officer, from applicant corporations, shall be stated.

(b) The full address of the place where the business of the employment agency is to be conducted.

(c) The business or occupation engaged in by the applicant for at

least two years immediately preceding the date of application.

(d) The proposed name of the agency. The bureau shall reject any proposed name which is the same or similar to that of a licensed employment agency. If, however, the applicant is a member of an employment agency system having other enfranchised members, the bureau shall accept a proposed name which utilizes the name of the system together with a designation not already licensed to another agency which the bureau determines will reasonably serve to identify the applicant. In such case the applicant shall have the right to continue to use such name only so long as job positions advertised by it are made available to persons inquiring about such job positions at offices of other members of the system.

Notwithstanding the provisions of this subdivision, the bureau shall approve as the proposed name, except where a different name is applied for, the name of an applicant as it appears on a valid, current employment agency license issued on or before June 30, 1967. When such name is used on any sign, advertising, or promotional material, the entire name as shown on the license shall be used.

(e) Such questions and information as will assure the bureau of the applicant's eligibility to hold license, as established in Section 9944.

(f) The names and addresses of all persons, except bona fide employees on commission or stated salaries, financially interested, either as partners, associates or profit sharers or anyone who receives any part of the income directly, in the operation of the agency in question, together with the amount of their respective interests.

(g) The name and address of the candidate, or candidates, for examination. The candidate for examination shall be one of the persons named in subdivision (a) above. In the event of partnerships or corporations, each partner, or officer, may be a candidate for examination.

(h) Such other information as the bureau may require.

SEC. 510. Section 9943 of the Business and Professions Code is amended to read:

9943. To be eligible for application for a license, the applicant shall be:

(a) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) At least 18 years of age.

(c) A person whose license has not been revoked within three years from the date of application.

(d) A person with a minimum of one year's experience with an employment agency or with equivalent experience in the opinion of the bureau.

(e) A person who has completed the 12th grade, except that the bureau may establish proof satisfactory to them that the applicant is possessed of a 12th grade education in point of intellectual competency and achievement.

(f) Show financial responsibility.

SEC. 511. Section 9944 of the Business and Professions Code is amended to read:

9944. Upon receipt of an application for a license, the bureau shall cause an investigation to be made as to the eligibility of the applicant for a license and of the premises designated in such application as the place in which it is proposed to conduct an employment agency. The bureau shall have the authority to approve or reject any proposed premises, if, in its opinion, such premises would endanger the health, welfare, safety, or morals of applicants for employment, or would tend to reflect unfavorably on the employment agency business. The bureau shall adopt regulations specifying the type of premises which it will reject for these reasons.

SEC. 511.5. Section 9954 of the Business and Professions Code is amended to read:

9954. All applications for renewal of an employment agency license shall state the name and address of all persons, except bona fide employees on commission or stated salaries, financially interested either as partners, associates or profit sharers, in the operation of the employment agency.

SEC. 512. Section 9965.2 of the Business and Professions Code is amended to read:

9965.2. Every counselor entering the employ of an employment agency shall submit an application for registration to the employment agency within five days after the commencement of such employment. The employment agency shall file such applications with the bureau within five days of the receipt thereof.

SEC. 513. Section 9965.6 of the Business and Professions Code is amended to read:

9965.6. To be eligible for registration the applicant shall meet the following requirements:

(a) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(b) Be a person whose registration has not been revoked within three years of the date of making the application.

SEC. 514. Section 9965.7 of the Business and Professions Code is repealed.

SEC. 515. Section 9993 of the Business and Professions Code is amended to read:

9993. Acts or omissions constituting grounds for disciplinary action by the bureau shall include, but shall not be limited to:

(a) Engaging in unprofessional conduct.

(b) Procuring a license by fraud, misrepresentation or mistake.

(c) Violations or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiracy to violate, any provision or term of this chapter.

(d) Making or giving any false statement or information in connection with the application for issuance of a license.

(e) Conviction of a crime substantially related to the qualifications, functions and duties of an employment agency

licensee.

(f) Impersonating or acting as proxy for any applicant in any examination required under this chapter for the issuance of a license.

(g) Making false promises, misrepresentations in advertisements, or engaging in the practice of claiming or demanding fees, other compensation or commissions for services not rendered, within the contract agreed.

(h) Failure to comply with obligations of contracts or agreements provided for in Section 9985 or, except as otherwise provided in Section 9977, failure to make fee refunds when due thereunder within 10 working days after request by the applicant.

(i) Engaging in any other conduct, whether of the same or a different nature than specified in this section, which constitutes fraud or dishonest dealing.

SEC. 516. Section 17804 of the Business and Professions Code is amended to read:

17804. To qualify for a license an applicant shall have all the following qualifications:

(a) (1) At least a master's degree in marriage counseling, in social work, or in one of the behavioral sciences, including, but not limited to, sociology or psychology, obtained from a college or university accredited by the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board.

(2) After September 1, 1975, an applicant shall have at least a master's degree in marriage, family and child counseling or a master's degree in counseling psychology or their equivalent, obtained from a school, college or university accredited by any of the above-listed accrediting associations or agencies. Equivalent degrees include, but are not limited to, the master's degree in social work and the master's degree in child development and family studies.

(b) At least two years' experience, of a character approved by the board, under the direction of a person who holds the marriage, family and child counseling license or at least two years' experience of a type which in the discretion of the board is equivalent to that obtained under the direction of such a person.

(c) Must be at least 18 years of age.

(d) Must not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 518. Section 17822 of the Business and Professions Code is amended to read:

17822. A plea or verdict of guilty to a charge substantially related to the qualifications, functions and duties of a marriage, family and child counselor is deemed to be a conviction within the meaning of this article. The board shall order the license suspended or revoked, or shall decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the

imposition of sentence.

SEC. 519. Section 17841 of the Business and Professions Code is amended to read:

17841. A license which has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter.

Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided for in Section 17840 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 520. Section 17862 of the Business and Professions Code is amended to read:

17862. A person who desires a license under this article shall meet all of the following qualifications:

(a) He shall possess at least a master's degree in psychology, educational psychology, school psychology, or counseling and guidance, or a degree deemed equivalent by the board under regulations duly adopted under this article. Such degree or training shall be obtained from educational institutions approved by the board according to the regulations duly adopted under this article.

(b) He shall be at least 18 years of age.

(c) He shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(d) He shall have successfully completed 60 semester hours of postgraduate work devoted to pupil personnel services or have experience deemed equivalent by the board in regulations duly adopted under this chapter.

(e) He shall furnish proof of three years of full-time experience as a credentialed school psychologist in the public schools or experience which the board deems equivalent. If the applicant provides proof of having completed one year's internship working full time as a school psychologist intern in the public schools in an accredited internship program, one year's experience shall be credited toward this requirement.

(f) He shall furnish written statements from two sponsors having personal knowledge of his professional competence. These statements shall include a description of the applicant's functioning and evaluation of his professional competencies. The sponsor of this applicant shall be qualified to be a licensed educational psychologist under this article.

(g) He shall be examined by the board with respect to the professional functions authorized by this article.

(h) He shall have at least one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist, or such suitable alternative experience as determined by the board in regulations duly adopted under this chapter.

SEC. 521. Section 17867 of the Business and Professions Code is amended to read:

17867. The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct shall include:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist, the record of conviction being conclusive evidence thereof.

(b) Securing a license by fraud or deceit practiced on the board.

(c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself, or to any other person, or to the public and to an extent that such action impairs his ability to perform his work as a licensed educational psychologist with safety to the public.

(d) Improper advertising.

(e) Violating or conspiring to violate the terms of this article.

(f) Committing a dishonest or fraudulent act as a licensed educational psychologist resulting in substantial injury to another.

SEC. 522. Section 18621 of the Business and Professions Code is amended to read:

18621. Members of the commission shall be appointed by the Governor for a four-year term.

Vacancies occurring shall be filled by appointment in the same manner for the unexpired term.

SEC. 523. Section 18636 of the Business and Professions Code is amended to read:

18636. The commission shall biennially make to the Legislature on the first Monday of January in each odd-numbered year a full report of its proceedings for the then current biennium and it may submit, with the report recommendations pertaining to its affairs.

SEC. 524. Section 19035.3 of the Business and Professions Code is amended to read:

19035.3. Each member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of his term, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

Each member appointed to the board, except the member appointed to represent the public at large, shall be from the same branch of the furniture and bedding industry as his predecessor.

No member shall serve more than two consecutive terms of office.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is a member of the industry at large.

The Governor shall appoint the additional members provided for at the 1977 portion of the 1977–78 session of the Legislature on or before June 30, 1978.

SEC. 525. Section 19120 of the Business and Professions Code is amended to read:

19120. The enforcement of all sterilization regulations approved by the California State Department of Health pertaining to any article subject to the provisions of this chapter is vested in the bureau.

SEC. 526. Section 19170.5 of the Business and Professions Code is amended to read:

19170.5. Licenses issued under this chapter expire at 12 p.m. on August 31 of each even-numbered year, if not, in each instance renewed. To renew his license, a licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the chief, and pay the fee prescribed by Section 19170. If the licensee fails to renew his license before its expiration, a delinquency fee of 20 percent, but not more than twenty-five dollars ($25), shall be added to the renewal fee. If the renewal fee and delinquency fee are not paid within 30 days after expiration of the license, the licensee shall be subject to such penalties as are provided elsewhere in this chapter.

SEC. 527. Section 19173.5 of the Business and Professions Code is amended to read:

19173.5. Section 11002 of the Government Code authorizes the use of the United States postal cancellation on the envelope in which the fee is mailed, as the date of payment.

SEC. 528. Section 19215 of the Business and Professions Code is amended to read:

19215. As used in this article, unless otherwise indicated, "director" means the Director of the Office of Administrative Hearings.

SEC. 529. Section 19215.1 of the Business and Professions Code is amended to read:

19215.1. The acceptance by a nonresident licensee of any of the rights and privileges conferred upon him by this chapter, as evidenced by his engaging within this state, either personally or through an agent or employee, in a business subject to license under this chapter, is equivalent to the appointment by such licensee of the director as his true and lawful attorney upon whom may be served all lawful process in any disciplinary proceeding conducted against him under this chapter.

SEC. 530. Section 19215.3 of the Business and Professions Code is amended to read:

19215.3. Service shall be made by leaving a copy of the accusation, together with a notice of defense and statement to respondent as described in Section 11505 of the Government Code, with a fee of two dollars ($2) for each licensee to be served, in the hands of the director or in his office in Sacramento. Such service shall be sufficient service on the licensee subject to compliance with Section 19215.4 of this code.

SEC. 531. Section 19215.4 of the Business and Professions Code is amended to read:

19215.4. A notice of such service and a copy of the accusation, together with the notice of defense and statement to respondent, shall forthwith be sent by registered mail by the director to the licensee at his last known address as furnished by the bureau. Personal service of such notice, copy of the accusation, notice of defense, and statement to respondent upon the licensee wherever found outside this state shall be the equivalent of such mailing.

SEC. 532. Section 19215.5 of the Business and Professions Code is amended to read:

19215.5. Proof of compliance with Section 19215.4 of this code shall be made in the event of service by mail by affidavit of the director or his authorized employee showing such service by mailing, together with the return receipt of the United States post office bearing the signature of the licensee or his agent. Such affidavit and receipt shall be appended to the original accusation on file with the bureau. In the event of personal service outside this state such compliance may be proved by the return of any duly constituted public officer qualified to serve process in civil actions in the state or jurisdiction where the licensee is found, showing such service to have been made. Such return shall be appended to the original accusation on file with the bureau.

SEC. 533. Section 19215.6 of the Business and Professions Code is amended to read:

19215.6. The bureau, or if the proceeding has been assigned to a hearing officer of the Office of Administrative Hearings, such hearing officer, may order such postponements or continuances and grant such extensions of time as may be necessary to afford the licensee reasonable opportunity to defend the proceeding. In no event shall the licensee have less than 30 days after the date of mailing or delivery to him of the copy of the accusation in which to file a notice of defense, nor shall the notice of hearing provided for in Section 11509 of the Government Code or the notice and copy of affidavit referred to in Section 11514 of said code be mailed or delivered less than 20 days prior to the date of hearing, and the time for making a request to cross-examine under said Section 11514 shall be not less than 15 days.

SEC. 534. Section 19215.7 of the Business and Professions Code is amended to read:

19215.7. The director shall keep a record of all process served upon him pursuant to this article which shall show the day and hour

of service.

SEC. 536. Any section of any act enacted by the Legislature during the 1978 portion of the 1977–78 Regular Session which takes effect on or before January 1, 1979, and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior or subsequent to this act.

CHAPTER 1162

An act to amend Sections 9888.4, 9889.51, 9889.52, 9889.53, 9889.54, 9889.55, 9889.56, 9889.57, 9889.58, 9889.60, and 9889.61 of the Business and Professions Code, and to amend Sections 4602.1 and 11713.1 of the Vehicle Code, relating to air pollution.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 9888.4 of the Business and Professions Code is amended to read:

9888.4. An owner of a fleet of three or more vehicles who is not an interstate carrier may be licensed by the director as a licensed station, provided such owner complies with the rules and regulations of the bureau. Such fleet owner stations shall not certify the adjustment of lamps or brakes nor the installation, inspection, repair, or service of motor vehicle pollution control devices or systems except on vehicles which constitute the owner's fleet.

SEC. 2. Section 9889.51 of the Business and Professions Code is amended to read:

9889.51. (a) The department shall, with the cooperation of the State Air Resources Board and the Department of the California Highway Patrol, design and adopt a program for the mandatory periodic emission inspection of all motor vehicles registered in those portions of the Counties of Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura that lie within the South Coast Air Basin, as described by regulation of the State Air Resources Board in Section 60104 of Title 17 of the California Administrative Code, as that section read on January 1, 1976, and of all motor vehicles owned by governmental entities and public utilities and registered elsewhere in the state but garaged in such portions of such counties, except that:

(1) The department shall exempt from the emission inspection portion of the program every motorcycle, as defined in Section 400 of the Vehicle Code, and every heavy-duty motor vehicle until the department, in conjunction with the State Air Resources Board, determines that the inclusion of such vehicles is technologically and

economically feasible.

(2) The department may, by regulation, exempt from the program classes of specialized motor vehicles which the department, in conjunction with the State Air Resources Board, determines would present prohibitive inspection problems.

(b) The emission inspection of each motor vehicle shall include all of the following:

(1) A determination that all emission control equipment and devices required by state and federal law are installed and functioning correctly.

(2) A measurement of the vehicle's exhaust emissions as determined by tests adopted by the department. In adopting a test procedure, the department shall consider, among other things, the cost of performing the test, the time required to conduct the test, the reliability of the test to provide accurate measurements of various air pollutants, and the ability of the automotive industry to interpret the test data accurately.

(3) A determination as to whether the vehicle complies with the emission standards for that vehicle's class and model year as prescribed by the State Air Resources Board pursuant to Section 43010 of the Health and Safety Code.

(4) Where applicable, a written indication to the vehicle's owner of the probable cause of any malfunction or misadjustment responsible for the vehicle's failure to comply with such standards and of any maintenance or repairs recommended to correct such malfunction or misadjustment.

SEC. 3. Section 9889.52 of the Business and Professions Code is amended to read:

9889.52. (a) The department shall administer the inspection program adopted pursuant to this chapter, and shall hire, train, and organize the staff necessary to effect this purpose.

(b) The department shall conduct a series of orientation or training seminars to familiarize automobile mechanics and owners of motor vehicles subject to the provisions of this chapter with procedures and forms to be utilized in the inspection program and, in particular, with maintenance and repair procedures recommended by the department for performance on vehicles failing to pass inspections. Such seminars shall be conducted at locations in each of the counties subject to this chapter selected on the basis of convenience of participants' access. Any automotive mechanic employed by an automotive repair dealer registered pursuant to Section 9884, or by a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, shall be required to attend an orientation or training seminar conducted by the department prior to performing the maintenance or repairs of a motor vehicle which were recommended by the department pursuant to Section 9889.51 to correct the malfunction or misadjustment responsible for the vehicle's failure of an inspection conducted pursuant to this chapter.

(c) The department shall acquire and construct such facilities as are necessary to establish inspection stations, except when the facilities are acquired and constructed by a public or private entity under contract with the state board pursuant to Section 9889.54. However, in the interests of expediency and economy, whenever practicable, existing state installations, surplus state property, and leased property shall be utilized. A private entity operating any portion of the inspection program by contract with the state board pursuant to Section 9889.54 shall not have any financial interest in any automotive repair station located within the geographical area in which the program is being conducted.

(d) The department shall ascertain whether a sufficient number of qualified persons are available to perform the motor vehicle repairs and maintenance which may be recommended by the department pursuant to motor vehicle inspection program established pursuant to this chapter. Notwithstanding the schedule in Section 9889.55, the program shall not be implemented until the department determines that there are enough qualified persons available to perform such repairs and maintenance.

(e) Notwithstanding any other provision of this section, the department may license any owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the inspections of fleet vehicles required by this chapter, on his own premises utilizing his own facilities or personnel, or both, subject to the following conditions:

(1) The owner's inspection system shall conform, in the department's determination, with all provisions of Section 9889.51, and with all rules and regulations adopted by the department pursuant thereto. Such regulations shall provide for adequate on-site inspection by representatives of the department and the State Air Resources Board. The department shall consult with the State Air Resources Board prior to adopting such regulations.

(2) The license shall be suspended or rescinded by the department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the system fails so to conform or that certificates of compliance or waiver have been issued by the owner in violation of regulations adopted by the department. Any owner licensed to conduct his own inspections under this subdivision shall be deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random spot checks required by this paragraph.

(3) The department may authorize the owner to implement and conduct the inspections required by this chapter for vehicles owned, as part of a fleet of 10 or more vehicles, through another person, subject to the conditions set forth in paragraphs (1) and (2) of this subdivision. Such other persons shall be identified in the owner's request for authorization to conduct inspections, and shall be

deemed to have consented to provide whatever access, information, and cooperation the department reasonably determines is necessary to facilitate the random spot checks required by this section.

(4) In the case of any new or used motor vehicle dealer, the authorization shall terminate upon implementation of the renewal of registration phase of the program pursuant to subdivision (c) of Section 9889.55.

SEC. 4. Section 9889.53 of the Business and Professions Code is amended to read:

9889.53. The department shall, with the cooperation of the State Air Resources Board, the Department of the California Highway Patrol, and the Department of Motor Vehicles, prepare a consumer handbook for the benefit of the owners of motor vehicles subject to the provisions of this chapter. The handbook shall explain the inspection program, the owner's responsibilities under the program, and the most common adjustments and repairs likely to be required in order for the owner's vehicle to pass inspection. The handbook shall be distributed by the Department of Motor Vehicles to all owners of motor vehicles subject to the provisions of this chapter free of charge and at the same time that the owners are notified of their first inspection pursuant to subdivision (a) of Section 9889.55.

SEC. 5. Section 9889.54 of the Business and Professions Code is amended to read:

9889.54. Notwithstanding any other provision of this chapter, the State Air Resources Board may contract with public or private entities to design, implement, or operate the inspection program adopted by the department pursuant to Section 9889.51.

SEC. 6. Section 9889.55 of the Business and Professions Code is amended to read:

9889.55. The provisions of this chapter shall take effect in accordance with the following schedule:

(a) (1) The inspection program shall be implemented on a trial basis by the department prior to January 1, 1979. A series of trial inspections of motor vehicles conducted by the department, in order to refine inspection standards and procedures adopted under the program, shall be completed by no later than January 1, 1979.

(2) The trial inspections shall be limited to the Counties of Orange, Riverside, and San Bernardino, or any portion of one or more of these counties as the department may specify, and to one or more classes of vehicles subject to the provisions of this chapter, for example, vehicles owned by governmental entities. The trial inspection program may include provision for voluntary maintenance or repair and reinspection of vehicles failing to pass initial inspections, undertaken at the owners' expense, and for mandatory maintenance or repair and reinspection of such vehicles, undertaken at the department's expense.

(3) Notwithstanding other provisions of this section and of Section 4602.1 of the Vehicle Code, the trial inspections shall not be enforced through renewal of registration of motor vehicles. The department

may issue stickers which shall be affixed to vehicles in accordance with the rules and regulations of the department or the department may, in conjunction with other affected state agencies, prescribe by regulation other means of enforcement.

(b) Any motor vehicle subject to the provisions of this chapter shall be inspected by the department upon each transfer of registration and in the case of a motor vehicle previously registered in another state, upon initial registration, subsequent to January 1, 1979.

(c) Upon authorization by statute, the state board, subsequent to January 1, 1981, shall inspect motor vehicles subject to this chapter upon each renewal of registration.

(d) Notwithstanding any other provision of this section, whenever transfer of registration, or initial or renewed registration of a motor vehicle subject to the provisions of this chapter occurs within 60 days of an inspection conducted pursuant to subdivision (b) or (c) of this section, the inspection otherwise required upon such transfer or registration need not be conducted. The department may extend the 60-day period during which a motor vehicle need not be reinspected if the State Air Resources Board determines, from test data, that such a period will not result in a significant increase in vehicular emissions.

(e) Any motor vehicles subject to the provisions of this chapter owned by a governmental entity or public utility and not required by law to have its registration renewed, shall be inspected by the department annually in accordance with a schedule established by the department to correspond with the schedule for inspections upon renewal of registration of all other motor vehicles pursuant to this chapter.

(f) The consumer handbook prepared by the department pursuant to Section 9889.53 shall be distributed by the Department of Motor Vehicles to every owner of a motor vehicle subject to the provisions of this chapter at the same time such owner is notified of his first inspection requirement pursuant to subdivision (b) or (c) of this section.

(g) The orientation or training seminars conducted by the department pursuant to subdivision (b) of Section 9889.52, shall be conducted periodically on an ongoing basis commencing prior to the conducting of the first trial inspections by the department pursuant to subdivision (a) of this section.

SEC. 7. Section 9889.56 of the Business and Professions Code is amended to read:

9889.56. (a) The department shall issue a certificate of compliance for each motor vehicle subject to the provisions of this chapter under any of the following situations:

(1) The motor vehicle passes an inspection conducted by the department pursuant to subdivision (b) or (c) of Section 9889.55.

(2) The motor vehicle is owned by any governmental entity or public utility and passes an inspection conducted by the department

pursuant to subdivision (e) of Section 9889.55.

(b) Any motor vehicle which fails to pass any required inspection may undergo maintenance or repair and be reinspected at the request of the owner. Such motor vehicle shall, however, be required to pass reinspection prior to its registration, except that the department may waive that requirement if the motor vehicle has been repaired or serviced by a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3.

(c) Notwithstanding any other provision of law, the department shall waive the certificate of compliance requirements, and shall issue a certificate of waiver to fulfill the requirements set forth in Section 4602.1 of the Vehicle Code, for a motor vehicle under any of the following situations:

(1) The motor vehicle does not satisfy the requirements of paragraph (1) of subdivision (b) of Section 9889.51, fails reinspection after receiving a low-emission tune-up performed to specifications established by the department pursuant to Section 9889.60, and is in need of further maintenance and repairs which the department determines, based upon the estimate of a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, will exceed maximum repair costs which the department may establish but which in no event shall be less than the amount applicable under paragraph (2) of subdivision (c) of this section. In establishing such maximum repair costs, the department shall consider such factors as the age of the vehicle and typical costs of repairing or replacing emission control devices.

Nothing in this paragraph shall be deemed to require additional data processing by the department, or its contractors or subcontractors.

(2) The motor vehicle satisfies the requirements of paragraph (1) of subdivision (b) of Section 9889.51, fails reinspection after receiving a low-emission tuneup performed to specifications established by the department pursuant to Section 9889.60, and is in need of further maintenance and repairs, excluding those necessary to repair or replace a defective, altered, or missing emission control device required by state or federal law, which the department determines, based upon the estimate of a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, will cost more than fifty dollars ($50). The department may increase that amount to seventy-five dollars ($75), taking into consideration, among other things, the increase in the cost of living as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) A fleet owner authorized to conduct inspections pursuant to subdivision (e) of Section 9889.52 shall issue certificates of compliance for motor vehicles which pass the inspection described in subdivision (e) of Section 9889.52, shall issue certificates of waiver

for motor vehicles which satisfy the requirements of subdivision (c) of this section, and shall pay a fee as established by the department for each certificate issued.

SEC. 8. Section 9889.57 of the Business and Professions Code is amended to read:

9889.57. If a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3 or a licensed installer performs the maintenance or repairs of a motor vehicle which were recommended by the department pursuant to Section 9889.51 to correct the malfunction or misadjustment responsible for the vehicle's having failed an inspection conducted pursuant to this chapter, the station or installer shall furnish to the vehicle's owner, for submission to the department upon reinspection, a written statement indicating in detail what maintenance or repairs were performed and what charges were assessed, and guaranteeing that the maintenance or repairs recommended by the department were performed in accordance with specifications established by the department pursuant to Section 9889.60.

SEC. 9. Section 9889.58 of the Business and Professions Code is amended to read:

9889.58. The department shall compile and maintain records of maintenance and repairs performed pursuant to Section 9889.56 by automotive repair dealers registered pursuant to Section 9884 and by motor vehicle pollution control device installation and inspection stations licensed pursuant to Section 9888.3. Information maintained in such records shall include, for each such dealer and station, all of the following:

(a) The number of maintenance and repair operations performed on motor vehicles which failed to pass an inspection conducted by the department pursuant to the provisions of this chapter.

(b) The correlation between maintenance and repairs recommended by the department pursuant to subdivision (b) of Section 9889.51 and maintenance and repairs performed.

(c) The percentage of maintained and repaired vehicles which passed reinspection.

(d) The charges assessed for such maintenance and repairs.

(e) Any other information deemed essential by the department.

A written summary of such information applicable to dealers and stations in the vicinity of each inspection station shall be published quarterly by the department and made available upon request to the owner of each motor vehicle subject to this chapter which fails to pass inspection at the time the owner is informed of such failure.

SEC. 10. Section 9889.60 of the Business and Professions Code is amended to read:

9889.60. The department shall, with the cooperation of the State Air Resources Board and after consultation with automobile manufacturers, establish specifications and procedures for the motor vehicle maintenance and repairs recommended by the department

pursuant to Section 9889.51 and for low-emission motor vehicle engine tuneups. Such specifications and procedures shall be followed whenever any motor vehicle maintenance, repairs, or engine tuneup is performed by an automotive repair dealer registered pursuant to Section 9884 or by a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3. Such registration or license of any dealer or station who does not follow such specifications and procedures shall be subject to suspension by the department.

SEC. 11. Section 9889.61 of the Business and Professions Code is amended to read:

9889.61. (a) The department shall, by no later that January 1, 1974, apply to the federal government for matching funds to carry out the inspection program established by this chapter.

(b) The department shall charge a fee for the inspection of motor vehicles conducted pursuant to Section 9889.55, except that the department may waive fees for the inspection of motor vehicles conducted pursuant to subdivision (a) of Section 9889.55. The revenues from such fees shall be deposited in the Vehicle Inspection Fund, which shall be available to the department to carry out its functions and duties specified in this chapter upon appropriation by the Legislature. The fees charged shall be sufficient to provide the state funds to match any federal grants awarded in response to application under subdivision (a), and to reimburse the Motor Vehicle Account in the Transportation Tax Fund for all appropriations made for the design, adoption, implementation, and operation of the inspection program established by this chapter.

(c) If the department determines that the collection of inspection fees at the time the motor vehicles are inspected is not safe or economical to the state, the department may request the Department of Motor Vehicles to collect, and in such a case the Department of Motor Vehicles shall collect, the fee at the time of registration or transfer of registration of the motor vehicle.

If the Department of Motor Vehicles collects the fees, it shall establish the necessary procedures for collecting the fees and shall deposit the fees, less its administrative cost in collecting the fees as determined by the Department of Finance, in the Vehicle Inspection Fund.

SEC. 12. Section 4602.1 of the Vehicle Code is amended to read:

4602.1. (a) In addition to any other requirements with respect to the registration of motor vehicles, the department shall also require upon initial registration of a motor vehicle previously registered in another state, and transfer of registration, of a motor vehicle subject to the provisions of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, subsequent to the first inspection of such vehicle required by such chapter, that the owner submit a valid certificate of compliance or waiver for the vehicle issued pursuant to Section 9889.56 of such code. In order to satisfy the provisions of this subdivision, the inspection certified shall

have been conducted during the 60 days prior to the initial registration, renewal of registration, or transfer of registration.

(b) The department shall, prior to the commencement of the inspection program to be conducted by the Department of Consumer Affairs pursuant to subdivision (a) or (c) of Section 9889.55 of the Business and Professions Code, notify any motor vehicle owner subject to the provisions of those sections of all of his rights and obligations under those programs and distribute to him free of charge the consumer handbook prepared by the Department of Consumer Affairs pursuant to Section 9889.53 of that code.

SEC. 13. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It shall be unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying such vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, and finance charges.

(c) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, and finance charges, while such vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and such time has elapsed.

SEC. 13.5. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It shall be unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying such vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the

state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, and any dealer documentary preparation charge.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20) while such vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and such time has elapsed.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill No. 3391 are both chaptered and become effective January 1, 1979, both bills amend Section 11713.1 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 3391, that the amendments to Section 11713.1 proposed by both bills be given effect and incorporated in Section 11713.1 in the form set forth in Section 13.5 of this act. Therefore, Section 13.5 of this act shall become operative only if this bill and Assembly Bill No. 3391 are both chaptered and become effective January 1, 1979, both amend Section 11713.1, and this bill is chaptered after Assembly Bill No. 3391, in which case Section 13 of this act shall not become operative.

SEC. 15. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1163

An act relating to the California State University and Colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Notwithstanding any other provision of law, as of the effective date of this act, an amount not to exceed eighty-three thousand dollars ($83,000) of the unexpended balance from Item 324, Budget Act of 1977, is hereby reappropriated to the Trustees of the California State University and Colleges, for the sole purpose of

funding the planning and implementation of energy conservation measures at California State University, Northridge, for planning for modification and minor modifications to the heating, ventilating and air conditioning systems, and implementing lighting modifications; subject to the approval of the State Public Works Board. These funds shall be available for expenditure until June 30, 1979.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to provide a means to deal with the severe energy shortage and so that conservation of energy may be started at the earliest possible time, it is necessary that this act become effective immediately.

CHAPTER 1164

An act to amend Section 337a of the Penal Code, relating to bookmaking.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 337a of the Penal Code is amended to read:

337a. Every person,

1. Who engages in pool selling or bookmaking, with or without writing, at any time or place; or

2. Who, whether for gain, hire, reward, or gratuitously, or otherwise, keeps or occupies, for any period of time whatsoever, any room, shed, tenement, tent, booth, building, float, vessel, place, stand or enclosure, of any kind, or any part thereof, with a book or books, paper or papers, apparatus, device or paraphernalia, for the purpose of recording or registering any bet or bets, or any purported bet or bets, or wager or wagers, or any purported wager or wagers, or of selling pools, or purported pools, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

3. Who, whether for gain, hire, reward, or gratuitously, or otherwise, receives, holds, or forwards, or purports or pretends to receive, hold, or forward, in any manner whatsoever, any money, thing or consideration of value, or the equivalent or memorandum thereof, staked, pledged, bet or wagered, or to be staked, pledged, bet or wagered, or offered for the purpose of being staked, pledged,

bet or wagered, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

4. Who, whether for gain, hire, reward, or gratuitously, or otherwise, at any time or place, records, or registers any bet or bets, wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever; or

5. Who, being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float, vessel, place, stand, enclosure or grounds, or any part thereof, whether for gain, hire, reward, or gratuitously, or otherwise, permits the same to be used or occupied for any purpose, or in any manner prohibited by subdivision 1, 2, 3 or 4 of this section; or

6. Who lays, makes, offers or accepts any bet or bets, or wager or wagers, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, is punishable by imprisonment in the county jail for a period of not more than one year or in the state prison.

(a) In any accusatory pleading charging a violation of this section, if the defendant has been once previously convicted of a violation of any subdivision of this section, the previous conviction shall be charged in the accusatory pleading, and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall, if he is not imprisoned in the state prison, be imprisoned in the county jail for a period of not more than one year or pay a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or be punished by both such fine and imprisonment. Nothing in this paragraph shall prohibit a court from placing such a person on probation, provided, however, that such person shall be required to pay a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) or to be imprisoned in the county jail for a period of not more than one year as a condition thereof. In no event does the court have the power to absolve a person convicted hereunder from either being imprisoned or from paying a fine of not less than five hundred dollars ($500).

(b) In any accusatory pleading charging a violation of this section, if the defendant has been previously convicted two or more times of a violation of any subdivision of this section, each such previous conviction shall be charged in the accusatory pleadings; and if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall, if he is not imprisoned in the

state prison, be imprisoned in the county jail for a period of not more than one year or pay a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or be punished by both such fine and imprisonment. Nothing in this paragraph shall prohibit a court from placing such a person on probation, provided, however, that such person shall be required to pay a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or to be imprisoned in the county jail for a period of not more than one year as a condition thereof. In no event does the court have the power to absolve a person convicted hereunder from either being imprisoned or from paying a fine of not less than one thousand dollars ($1,000).

Except where the existence of a previous conviction of any subdivision of this section was not admitted or not found to be true pursuant to this section, or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

This section shall apply not only to persons who may commit any of the acts designated in subdivisions 1 to 6 inclusive of this section, as a business or occupation, but shall also apply to every person or persons who may do in a single instance any one of the acts specified in said subdivisions 1 to 6 inclusive.

CHAPTER 1165

An act to add and repeal Section 411.30 to the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 411.30 is added to the Code of Civil Procedure, to read:

411.30. (a) In any action for damages arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or of a person holding a valid dentist's license issued pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, no complaint shall be accepted for filing unless it is accompanied by the certificate specified in subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff declaring either:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one physician and surgeon or

dentist who is licensed to practice and practices in this state or any other state or teaches at an accredited college or university and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action; or

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint. If a certificate is not filed within 60 days, the complaint shall be dismissed and the plaintiff and the plaintiff's attorneys shall not be subject to any of the sanctions provided by this section; or,

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate physicians and surgeons or dentists to obtain such consultation and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one such certificate shall be filed notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) In the event that the trial judge instructs the jury or the trial judge, sitting in trial without a jury, takes instructions exclusively on the doctrine of "res ipsa loquitur", as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a medical procedure, or exclusively on the doctrines of "res ipsa loquitur" and failure to inform of the consequences of a medical procedure, this section shall be inapplicable. Where the attorney intends to rely solely on the doctrines, the attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a medical procedure or both, and for that reason is not filing a certificate required by this section.

(e) If a request by the plaintiff for the defendant's records has been made pursuant to Section 1158 of the Evidence Code, and if the defendant has failed to produce such records within the time limits specified by that section, the time for filing the certificate of merit shall be extended for the period by which the time for furnishing records set forth in Section 1158 of the Evidence Code is exceeded by the defendant to a maximum of 60 days after which the requirement for the certificate is voided.

(f) For purposes of this section, and subject to Evidence Code Section 912, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the physician or surgeon or dentist consulted and the contents of such consultation. Such privilege shall also be

held by the physician or surgeon or dentist so consulted, provided when the attorney makes a claim under paragraph (3) of subdivision (b) that he was unable to obtain the required consultation with the physician and surgeon or dentist, the court may require the attorney to divulge the names of physicians and surgeons or dentists refusing such consultation.

(g) A violation of the provisions of this section may constitute unprofessional conduct and be grounds for discipline against the attorney.

(h) This section is repealed as of January 1, 1984.

CHAPTER 1166

An act to amend Sections 664, 1097, 1157, 1192, 1192.1, 1192.2, and 1260 of the Penal Code, relating to attempts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 664 of the Penal Code is amended to read:

664. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison, the person guilty of such attempt is punishable by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense so attempted; provided, however, that if the crime attempted is one in which the maximum sentence is life imprisonment or death the person guilty of such attempt shall be punishable by imprisonment in the state prison for a term of five, six, or seven years.

2. If the offense so attempted is punishable by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in a county jail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense so attempted.

3. If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense so attempted.

4. If a crime is divided into degrees, an attempt to commit the crime may be of any such degree, and the punishment for such an attempt shall be determined as provided by this section; except that the crime of attempted murder of the second degree shall be punishable by imprisonment in the state prison for a term of three,

four, or five years.

SEC. 2. Section 664 of the Penal Code is amended to read:

664. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison, the person guilty of such attempt is punishable by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense so attempted; provided, however, that if the crime attempted is one in which the maximum sentence is life imprisonment or death the person guilty of such attempt shall be punishable by imprisonment in the state prison for a term of five, seven, or nine years.

2. If the offense so attempted is punishable by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in a county jail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense so attempted.

3. If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense so attempted.

4. If a crime is divided into degrees, an attempt to commit the crime may be of any such degree, and the punishment for such an attempt shall be determined as provided by this section.

SEC. 3. Section 1097 of the Penal Code is amended to read:

1097. When it appears that the defendant has committed a public offense, or attempted to commit a public offense, and there is reasonable ground of doubt in which of two or more degrees of the crime or attempted crime he is guilty, he can be convicted of the lowest of such degrees only.

SEC. 4. Section 1157 of the Penal Code is amended to read:

1157. Whenever a defendant is convicted of a crime or attempt to commit a crime which is distinguished into degrees, the jury, or the court if a jury trial is waived, must find the degree of the crime or attempted crime of which he is guilty. Upon the failure of the jury or the court to so determine, the degree of the crime or attempted crime of which the defendant is guilty, shall be deemed to be of the lesser degree.

SEC. 5. Section 1192 of the Penal Code is amended to read:

1192. Upon a plea of guilty, or upon conviction by the court without a jury, of a crime or attempted crime distinguished or divided into degrees, the court must, before passing sentence, determine the degree. Upon the failure of the court to so determine, the degree of the crime or attempted crime of which the defendant is guilty, shall be deemed to be of the lesser degree.

SEC. 6. Section 1192.1 of the Penal Code is amended to read:

1192.1. Upon a plea of guilty to an information or indictment

accusing the defendant of a crime or attempted crime divided into degrees when consented to by the prosecuting attorney in open court and approved by the court, such plea may specify the degree thereof and in such event the defendant cannot be punished for a higher degree of the crime or attempted crime than the degree specified.

SEC. 7. Section 1192.2 of the Penal Code is amended to read:

1192.2. Upon a plea of guilty before a committing magistrate as provided in Section 859a, to a crime or attempted crime divided into degrees, when consented to by the prosecuting attorney in open court and approved by such magistrate, such plea may specify the degree thereof and in such event, the defendant cannot be punished for a higher degree of the crime or attempted crime than the degree specified.

SEC. 8. Section 1260 of the Penal Code is amended to read:

1260. The court may reverse, affirm, or modify a judgment or order appealed from, or reduce the degree of the offense or attempted offense or the punishment imposed, and may set aside, affirm, or modify any or all of the proceedings subsequent to, or dependent upon, such judgment or order, and may, if proper, order a new trial and may, if proper, remand the cause to the trial court for such further proceedings as may be just under the circumstances.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 709 are both chaptered and become effective January 1, 1979, both bills amend Section 664 of the Penal Code, and this bill is chaptered after Senate Bill No. 709, that the amendments to Section 664 proposed by both bills be given effect and incorporated in Section 664 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 709 are both chaptered and become effective January 1, 1979, both amend Section 664, and this bill is chaptered after Senate Bill No. 709, in which case Section 1 of this act shall not become operative.

CHAPTER 1167

An act to add and repeal Chapter 6 (commencing with Section 13850) to Title 6 of Part 4 of the Penal Code, relating to a career criminal apprehension program.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Chapter 6 (commencing with Section 13850) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 6. CALIFORNIA CAREER CRIMINAL APPREHENSION PROGRAM

13850. The Legislature hereby finds that a substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the Legislature intends to support increased efforts by local law enforcement agencies to investigate and apprehend career criminals through management, organization and operational techniques that have been demonstrated to be effective in selected cities and counties in this and other states.

13851. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for local law enforcement, called the California Career Criminal Apprehension Program. All funds made available to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office in consultation with the California Council on Criminal Justice.

(b) The executive director is authorized to allocate and award funds to local units of government or combinations thereof, in which career criminal apprehension units are established in law enforcement agencies in substantial compliance with policies and criteria set forth in Sections 13852 and 13853.

(c) Such allocation and award of funds shall be made upon application executed by the chief law enforcement officer of the applicant unit of government and approved by the legislative body. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Apprehension Program, be made available to support the apprehension of multiple or repeat felony criminal offenders.

(d) On or before May 1, 1979, the Executive Director of the Office of Criminal Justice Planning shall prepare and issue administrative guidelines and procedures for the California Career Criminal Apprehension Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft shall be submitted on or before April 1, 1979, to the Chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) Annually, commencing October 1, 1979, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and the results obtained from law enforcement career criminal apprehension programs receiving funds under this chapter.

13852. Law enforcement agencies receiving funds under this chapter shall concentrate enhanced law enforcement management efforts and resources upon individuals identified under selection criteria set forth in Section 13853. Enhanced law enforcement efforts

and resources shall include but not be limited to:

(a) Crime analysis, which is the timely collection and study of local crime data to perform all of the following:

(1) Identify evolving or existing crime patterns, particularly those involving career felony criminals.

(2) Provide investigative leads.

(3) Identify geographical areas or population groups experiencing relatively severe crime victimization, in order to improve effectiveness of crime prevention efforts.

(4) Provide supporting data for improved allocation of overall law enforcement agency resources.

(b) Improved management of patrol and investigative operations involving use of information resulting from crime analysis, may include participation in multi-jurisdictional investigative units and measures to increase continuity of investigative efforts from the initial patrol response through the arrest and prosecution of the offender. Such measures may include:

(1) Innovative personnel deployment techniques.

(2) Innovative techniques of case screening.

(3) Management of continuing investigations.

(4) Monitoring of investigation operations.

(c) (1) Career criminal apprehension programs supported under this chapter shall concentrate on the identification and arrest of career criminals and the support of their subsequent prosecution. The determination of which suspected felony offenders shall be the subject of career criminal apprehension efforts shall be in accordance with written criteria developed by the applicant law enforcement agency, consistent with Section 13853 and approved by the local district attorney. Highly qualified and experienced personnel shall be assigned to staff career criminal apprehension programs.

(2) Each career criminal apprehension program as one of its ongoing functions, shall maintain coordination with the prosecutor assigned to each case resulting from its efforts. This coordination should include but not be limited to case preparation, processing, and adjudication.

13853. An individual may be the subject of career criminal apprehension efforts who is under investigation for the commission or attempted commission of one or more of the following felonies: homicide, rape or sexual assault, child molestation, robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is either under suspicion of having committed three or more separate felony offenses not arising out of the same transaction, or has suffered at least one conviction during the preceding 10 years for the commission or attempted commission of any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for the commission or attempted commission

of any felony listed in paragraph (2) of this subdivision:

(1) Robbery by a person armed with a deadly or dangerous weapon, burglary of the first degree, arson as defined in Section 447a or 448a, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in paragraph (1) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

13854. (a) Criteria for selection of law enforcement agencies to receive career criminal apprehension program funding shall be developed in consultation with an advisory group entitled "The Career Criminal Apprehension Program Steering Committee."

(b) The Career Criminal Apprehension Program Steering Committee shall be composed of four police chiefs, three sheriffs, two district attorneys, two attorneys primarily engaged in the practice of criminal defense, one city manager and one county administrative officer, all of whom are designated by the executive director of the Office of Criminal Justice Planning, who shall provide staff services to the Steering Committee.

(c) The executive director of the Office of Criminal Justice Planning, in consultation with the Steering Committee and the California Council on Criminal Justice, shall develop specific guidelines and administration of the procedures for the selection of the California Criminal Apprehension Program whose guidelines shall include the selected criteria described in the subdivisions above.

(d) Administration of the overall program and the evaluation and monitoring of all grants made under this chapter shall be performed by the Office of Criminal Justice Planning, provided that funds expended for such functions shall not exceed 7.5 percent of the total annual amount made available for the purposes of this chapter.

(e) Local assistance grants made pursuant to this chapter shall not be subject to review pursuant to Section 14780 of the Government Code.

SEC. 2. This program shall be funded by federal moneys made available to the California Council on Criminal Justice. It is the intent of the Legislature that the council support the efforts envisioned in this legislation.

SEC. 3. This act shall remain operative only until January 1, 1983, and on such date is repealed.

CHAPTER 1168

An act to amend Sections 206, 308, 310, 320, and 367 of the Welfare and Institutions Code, relating to shelter facilities.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 206 of the Welfare and Institutions Code is amended to read:

206. No person taken into custody solely upon the ground that he is a person described in Section 300 or adjudged to be such and made a dependent child of the juvenile court pursuant to this chapter solely upon that ground shall, in any detention under this chapter, be brought into direct contact or personal association with any person taken into custody on the ground that he is a person described by Section 601 or 602, or who has been made a ward of the juvenile court on either such ground.

Separate, segregated facilities for such persons alleged to be within the description of Section 300, or persons adjudged to be such and made dependent children of the court pursuant to this chapter solely upon that ground shall be provided by the board of supervisors. Such separate, segregated facilities may be provided in the juvenile hall or elsewhere.

The facilities required by such section shall, with regard to minors alleged or adjudged to come within subdivision (a), (b), or (d) of Section 300 be nonsecure. The facilities provided to minors alleged or adjudged to come within subdivision (c) of Section 300 shall be secure.

No record of the detention of such a person shall be made or kept by any law enforcement agency or the Bureau of Criminal Identification and Investigation as a record of arrest.

SEC. 2. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When an officer takes a minor before a probation officer pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a probation officer pursuant to this article and, except where physically impossible, no later than three hours after he has been taken into custody, the minor has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at his own expense and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such

telephone calls is guilty of a misdemeanor.

SEC. 3. Section 310 of the Welfare and Institutions Code is amended to read:

310. As a condition for the release of such minor, the probation officer may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both of them will appear before the probation officer at a suitable place designated by the probation officer at a specified time.

SEC. 4. Section 320 of the Welfare and Institutions Code is amended to read:

320. If it appears upon the hearing that such minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained, or that such minor is likely to flee the jurisdiction of the court, the court may make its order that such minor be detained in a suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter said order together with its findings of fact in support thereof in the records of the court.

SEC. 5. Section 367 of the Welfare and Institutions Code is amended to read:

367. (a) Whenever a person has been adjudged a dependent child of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of dependent children of the juvenile court, the court may order that said dependent child be detained in a suitable place designated as the court seems fit until the execution of the order of commitment or of other disposition.

(b) In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, the court shall periodically review the case to determine whether the delay is reasonable. Such periodic reviews shall be held at least every 15 days, commencing from the time the minor was initially detained pending the execution of the order of commitment or of any other disposition, and during the course of each review the court shall inquire regarding the action taken by the probation department to carry out its order, the reasons for the delay, and the effect of the delay upon the minor.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1169

An act to amend Section 1294 of, to add Section 44987 to, and repeal Section 22723 of the Education Code, relating to school employees.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1294 of the Education Code is amended to read:

1294. Each person employed by a county superintendent of schools in a position requiring certification qualifications, except employees included in the civil service system or in any merit system, or any person who holds an office by virtue of an election conducted under the provisions of the Elections Code or the Education Code, and whose salary is paid from the county school service fund, has the same right with respect to leaves of absence, sick leave, and bereavement leave as a person employed by a school district or a community college district in a position requiring certification qualifications.

The provisions of Sections 44844, 44845, 44949, 44955, 44962 to 44976, inclusive, 44977, 44978, 44979, 44983, 44984, 44985, 44987, 87413, 87414, 87740, 87743, 87763 to 87779, inclusive, 87780, 87781, 87782, 87786, 87787, and 87788 apply to persons so employed by a county superintendent of schools and so paid from the county school service fund. Whenever, in such provisions, a duty or power is imposed upon or granted to the governing board of a school district or community college district or an employee thereof, such power or duty shall, for the purposes of this section, be deemed to be granted to or imposed on the county superintendent of schools or his employee, respectively. When "district" is used in such provisions, it shall, for the purposes of this section, be deemed to mean "county superintendent of schools." Compensation paid to such employees during such leaves shall be paid from the county school service fund.

The granting of leaves of absence to such employees pursuant to Section 44966 or Section 87767 shall be by the county superintendent of schools, upon approval by the county board of education.

SEC. 2. Section 22723 of the Education Code is repealed.

SEC. 3. Section 44987 is added to the Education Code, to read:

44987. The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling such employee to serve as an elected officer of any statewide public employee organization, or national organization with which such statewide organization is affiliated, or of any local organization or organizations of a school district having at least 50,000 employees which is affiliated with both a statewide and national organization.

Such leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special or regular meetings of the body of such organization on which such employee serves as an officer. Compensation during such leave shall include retirement fund contributions required of the school district as employer. Required retirement contributions shall include the amount necessary to pay any unfunded liability cost for such retirement plan. The employee shall earn full service credit during such leave of absence and shall pay member contributions as prescribed by Section 22804. The maximum amount of such service credit earned shall not exceed eight calendar years. Any such employee who serves as a full time officer of a public employee organization shall not be eligible for disability benefits under any public employee retirement system in California for injuries incurred on the job while on such a leave of absence.

Following the school district's payment of the employee for such leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of such leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code.

For purposes of this section, "school district" also means "county superintendent of schools."

CHAPTER 1170

An act to add Sections 20750.94, 20981.2, 21222.31, 21222.32, 21222.71, and 21222.81 to, the Government Code, relating to retirement of public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 20750.94 is added to the Government Code, to read:

20750.94. The contribution of a school employer to the retirement fund with respect to school members and local members employed by a school district or a county superintendent of schools, and the contribution of any employer of a school member, as defined

in Section 20019.2, for benefits provided by any provision of this part is increased by a sum equal to 0.308 percent of the compensation paid to such members.

SEC. 2. Section 20981.2 is added to the Government Code, to read:

20981.2. Notwithstanding any other provision of law, every school member and every miscellaneous member employed by a school district or by a county superintendent of schools, shall not be required to retire prior to the first day of the month succeeding that month in which he attains age 70.

SEC. 3. Section 21222.31 is added to the Government Code, to read:

21222.31. In addition to the increase of allowance authorized by and granted pursuant to the provisions of Section 21222 and notwithstanding the limitation in subdivision (b) of Section 21224, any monthly allowance computed under or limited by Section 21251.1 prior to its repeal by Chapter 266, Statutes of 1972, and paid with respect to a school member or local member employed by a school district or a county superintendent of schools, and with respect to a school member, as defined in Section 20019.2, shall be increased by 15 percent. Such percentage shall be applied to the allowance payable on January 1, 1979.

SEC. 4. Section 21222.32 is added to the Government Code, to read:

21222.32. In addition to the monthly allowance payable for January 1979, an additional one-time payment shall be made which is equal to 18 times the amount of the increase, if any, granted pursuant to Sections 21222.31, 21222.71, and 21222.81.

SEC. 5. Section 21222.71 is added to the Government Code, to read:

21222.71. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a school member or a local member employed by a school district or a county superintendent of schools, and with respect to a school member, as defined in Section 20019.2, who retired or died prior to January 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

Period during which retirement or death occurred.	Percentage:
On or before December 31, 1965	15%
12 months ending December 31, 1966	14%
12 months ending December 31, 1967	13%
12 months ending December 31, 1968	12%
12 months ending December 31, 1969	9%
12 months ending December 31, 1970	6%
12 months ending December 31, 1971	5%

12 months ending December 31, 1972	4%
12 months ending December 31, 1973	3%

The percentage shall be applied to the allowance payable on January 1, 1979, after the increase, if any, authorized by Section 21222.31.

SEC. 6. Section 21222.81 is added to the Government Code, to read:

21222.81. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation on such increases imposed by this article, the monthly allowance paid with respect to a school member or a local member employed by a school district or a county superintendent of schools, and with respect to a school member, as defined in Section 20019.2, who retired or died prior to July 1, 1974, shall be increased by the percentage set forth opposite the period in the following table during which retirement became effective or death occurred:

Period during which retirement or death occurred:	Percentage.
On or before December 31, 1965	7%
12 months ending December 31, 1966	6%
12 months ending December 31, 1967	5%
12 months ending December 31, 1968	4%
12 months ending December 31, 1969	3%
18 months ending June 30, 1971	2%
36 months ending June 30, 1974	1%

The percentage shall be applied to the allowance payable on January 1, 1979, after the increase, if any, authorized by Sections 21222.31 and 21222.71. The allowance as so increased shall be paid for time on and after January 1, 1979, and until the first day of April 1979. The base allowance shall be the allowance as so increased and the base year shall be the calendar year 1977 for annual adjustments of allowances increased under Section 21222.31, Section 21222.71, and this section effective for time commencing on April 1, 1979.

SEC. 7. The sum of two million five hundred fifty thousand dollars ($2,550,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to county superintendents of schools pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

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

In order that the maximum number of persons who would be eligible to take advantage of the provisions of this act may be permitted to do so, it is necessary that this act become effective

immediately.

CHAPTER 1171

An act to amend Section 44903 of the Education Code, relating to certificated employees.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 44903 of the Education Code is amended to read:

44903. On the unionization, unification, uniting, or consolidation of one or more school districts in which the average daily attendance for the preceding school year was less than 250 pupils, with a district or districts in which the average daily attendance was or, as a result of the unionization, uniting, consolidation, or unification, becomes 250 or more pupils, the regular three-year probationary period required of certificated employees for permanent status by Section 44882 shall be deemed to have commenced at the beginning of the employee's first complete year of consecutive employment by the school district having an average daily attendance of less than 250 pupils. Every certificated employee who has been employed for three or more complete consecutive school years by a district having an average daily attendance of less than 250 pupils shall, immediately upon his employment in a certificated position following such unionization, unification, uniting, or consolidation, be a permanent employee. The amendments to this section enacted by the Legislature at the 1977–78 Regular Session shall apply only to the unionization, unification, uniting, or consolidation of school districts which becomes effective for all purposes on or after January 1, 1979.

CHAPTER 1172

An act to amend Section 44944 of the Education Code, relating to the school employees.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 44944 of the Education Code is amended to read:

44944. (a) In the event a hearing is requested by the employee,

the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, provided, however, that the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency therein, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance; provided, however, that such extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be a hearing

officer of the State Office of Administrative Procedure who shall be chairman and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, such failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote and the commission shall prepare a written decision containing findings of fact, determinations of issues and a disposition which shall be, solely, either:

(1) That the employee should be dismissed.

(2) That the employee should not be dismissed.

The commission shall not have the power to dispose of the charge of dismissal by imposing probation, suspension of a dismissal or a nondismissal, or other alternative sanctions.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in California, such member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) If the governing board orders the dismissal of the employee, the governing board and the employee shall share equally the

expenses of the hearing, including the cost of the hearing officer; and the state shall pay any costs incurred under subdivision (d) (2) above, and the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The State Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations and forms for the submission of such claims. The employee and the governing board shall pay their own attorney fees.

If the governing board orders that the employee not be dismissed, the governing board shall pay all expenses of the hearing, including the cost of the hearing officer, and any costs incurred under subdivision (d) (2) above, and the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

CHAPTER 1173

An act to amend Section 3302 of the Government Code, relating to public safety officers.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 3302 of the Government Code is amended to read:

3302. (a) Except as otherwise provided by law, or whenever on duty or in uniform, no public safety officer shall be prohibited from engaging, or be coerced or required to engage, in political activity.

(b) No public safety officer shall be prohibited from seeking election to, or serving as a member of, the governing board of a school district.

CHAPTER 1174

An act to amend Section 3301 of the Government Code, relating to public safety officers.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 3301 of the Government Code is amended to read:

3301. For purposes of this chapter, the term public safety officer means all peace officers, as defined in Section 830.1 and subdivisions (a) and (b) of Section 830.2 of the Penal Code, including peace officers who are employees of a charter city or county. The term public safety officer also includes state correctional officers employed by the State Department of Corrections. The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that such stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

CHAPTER 1175

An act to amend Section 3301 of the Government Code, relating to public safety officers.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 3301 of the Government Code is amended to read:

3301. For purposes of this chapter, the term public safety officer means all peace officers, as defined in Section 830.1 and subdivisions (a) and (b) of Section 830.2 of the Penal Code, including peace officers who are employees of a charter city or county. The term public safety officer also means all persons employed by the State of California and designated by law as peace officers.

The Legislature hereby finds and declares that the rights and protections provided to peace officers under this chapter constitute a matter of statewide concern. The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that such stable relations are continued throughout the state and to further

assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California.

CHAPTER 1176

An act to amend Sections 23902, 23904.5, 23905, 23910, and 23910.6 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 23902 of the Education Code is amended to read:

23902. A member may apply for a disability allowance if he has five or more years of credited service provided that:

(a) At least four years were credited for actual service performed in a position requiring membership in the system;

(b) The last five years of credited service have been served in this state; and

(c) The member has not attained age 60 years, or has unused sick leave with sufficient days to have him receive salary on account of such sick leave to age 60 years.

(d) Nothing in this section shall affect the right of a member to a disability allowance if the reason that the member has less than four years of actual service is due to an on-the-job injury or disease in a position requiring membership in the system.

SEC. 2. Section 23904.5 of the Education Code is amended to read:

23904.5. Any member with a disabling impairment which is amenable to treatment that could be expected to restore ability to work shall be deemed to be under a disability if:

(a) Undergoing therapy prescribed by the member's treatment sources but the impairment has continued to be disabling or can be expected to be disabling for at least 12 months;

(b) Evidence, excluding that developed under Section 139.5 of the Labor Code, indicates that additional training may allow the member to perform in a comparable position; or

(c) Evidence, excluding that developed under Section 139.5 of the Labor Code, indicates that a rehabilitation program may allow the member to return to the member's original position or perform in a comparable position.

Such member who willfully fails to follow prescribed treatment, or take additional training, or who refuses to accept rehabilitation

services made available to him by a rehabilitation program approved by the board cannot be found disabled. Willful failure to follow prescribed treatment does not exist if there is good cause for failure to follow such treatment. In determining whether a member has good cause for failure to follow such treatment, the board shall take into account whether such treatment would abridge the member's right to the free exercise of his religion.

SEC. 3. Section 23905 of the Education Code is amended to read:

23905. The disability allowance shall accrue and become payable as provided in Section 24600.

However, in those cases of potential physical or vocational rehabilitation, or willful controlled substance abuse, the board may limit the payment of or disability allowance to any such member to a period of two years.

SEC. 4. Section 23910 of the Education Code is amended to read:

23910. If a person who begins to receive a disability allowance after June 30, 1972, is employed, or is self-employed in any capacity in which his average earnings for any prior continuous six months amount to 66⅔ percent of the final compensation upon which the disability allowance was based increased 2 percent compounded annually from the effective date of the disability allowance, the person shall be presumed capable of performing gainful employment and no longer disabled. The disability allowance shall be terminated on the first day of the month in which the State Teachers' Retirement System is notified that the member has earned 66⅔ percent of compensation as specified above.

For any one or more months in which a disability allowance was paid and in which the amount of earnings exceeded 66⅔ percent of final compensation, the disability allowance shall be considered overpaid and appropriate recovery shall be made.

SEC. 5. Section 23910.6 of the Education Code is amended to read:

23910.6. Where a disabilitant returns to a position requiring membership or has his allowance terminated under the provisions of Section 23910 and within six months of return suffers a recurrence of the original disability, or his earnings fall below the amounts prescribed in Section 23910, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability allowance shall be reinstated as of the first day of the month in which the recurrence of the disability occurred provided the member complies with the provisions in Section 23903.

CHAPTER 1177

An act to amend Section 20614 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 20614 of the Government Code is amended to read:

20614. On and after July 1, 1978, contracting agencies may, by contract or contract amendment, eliminate or reduce normal member contributions by a fraction of the normal rate of contributions otherwise required by this part. Such elimination or reduction shall be uniform with respect to all members within each of the following categories: local miscellaneous members, local policemen, local firemen, county peace officers, or all local safety members other than local policemen, local firemen, and county peace officers.

This section shall not apply to any contracting agency or its employees, unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after the date this section takes effect, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act is intended to affect existing provisions of law which become operative on July 1, 1978. Thus, in order for this act to achieve its intended result, it is necessary that this act take effect immediately.

CHAPTER 1178

An act to amend Section 53292 of the Government Code, relating to fire protection.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 53292 of the Government Code is amended to read:

53292. Whenever a fire protection district or city fire department is dissolved or the area it serves is decreased by reason of a consolidation, merger, incorporation, or annexation, and the fire protection district or city fire department taking over the duties of the dissolved or decreased district or department decides to hire additional firemen, it shall give first choice for the positions to be filled to firemen employed by the dissolved or decreased district or department. As nearly as possible, such employees who are hired shall be given positions with a rank comparable to that which they held in the dissolved or decreased district or department. No employee shall be hired who is over the mandatory retirement age of the fire protection district or city fire department which is taking over the duties of the dissolved or decreased district or department.

Where such employees are hired as a result of such consolidation, merger, incorporation, or annexation, the seniority or other employment rights of the employees of the fire protection district or fire department taking over the duties of the dissolved or decreased district or department shall not be impaired as a result of such consolidation, merger, incorporation, or annexation.

CHAPTER 1179

An act to add Section 44830.5 to the Education Code, relating to certificated employees.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 44830.5 is added to the Education Code, to read:

44830.5. The Legislature hereby declares that it is contrary to the interests of this state and the people thereof for the governing board of any school district to adhere to a strict ethnic ratio in the assignment of certificated employees of the district.

CHAPTER 1180

An act to amend Sections 20009.1, 20009.2, 20009.3, 20017.791, 20022.2, 20027, 20230, 20331, 20497.5, 20741, 20750, 20750.1, 20750.2, 20750.3, 20750.42, 20755, 20815, 21025.5, 21212, 21252.5, 21367.52, 22016.5, 22751, and 22825.7 of, to add Sections 20759.2 and 22215 to, and to repeal Sections 20019.5, 20023.2, 20750.21, 20750.22, 20750.23, 20750.27, 20750.32, 20750.33, 20750.87, 20750.88, 20750.89, 20750.92, 21222.9, 21257.2, and 22215 of, the Government Code, relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The office of county superintendent of schools with respect to its employees whose compensation is not paid from county funds and with respect to employees of school districts within the jurisdiction of the superintendent which are not contracting agencies.

(b) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the Post Fund of the Veterans Home of California.

(c) Any foundation or trust established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of a state or junior college.

(d) Any student body or nonprofit organization composed exclusively of students of a state or junior college or of members of the faculty of a state or junior college, or both, and established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the state or junior college.

(e) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(f) A state organization which is authorized under Sections 35172 and 72620 of the Education Code.

(g) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(h) A section of the California Interscholastic Federation.

(i) Any credit union with a membership of over 10,000 and fifteen million dollars ($15,000,000) in assets and incorporated under Division 5 (commencing with Section 14000) of the Financial Code, and 95 percent of whose membership is limited to state employees

and their immediate families and employees of any such credit union. For the purposes of this subdivision, "state employee" shall mean any person who is retired from or employed by the state, the State University and Colleges or the University of California, and any person employed by any other public agency which receives the majority of its funding from the state and "immediate family" shall mean those persons related by blood or marriage who reside in the household of a state employee member of the credit union. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board.

SEC. 2. Section 20009.2 of the Government Code is amended to read:

20009.2. "Public agency" also includes a nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code).

SEC. 3. Section 20009.3 of the Government Code is amended to read:

20009.3. "Public agency" also includes a public or private nonprofit corporation which operates a regional center for the developmentally disabled in accordance with Section 38201 of the Health and Safety Code. "Public agency" for purposes of this part shall only constitute the employees of the regional center.

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

SEC. 4. Section 20017.791 of the Government Code is amended to read:

20017.791. Any person who was employed in the classifications listed in Section 20017.79 immediately prior to his death or retirement on and after January 1, 1977, and any person who is eligible to receive any benefits with respect to such person, shall have such allowance and benefits recalculated on the date that Section 20017.79 becomes applicable to such classification and to receive allowances and benefits computed on such basis.

Any such person shall have the right to elect, within 90 days of the operative date of this section, not to have his allowance and benefits recalculated on the date Section 20017.79 becomes applicable to the classification that the person was employed in immediately prior to retirement.

It is the intent of the Legislature in amending this section to merely correct for the delay of the Department of Health, Education, and Welfare in approving the removal of social security coverage from the employees specified in Chapter 24 of the Statutes

of 1976. It is not the intent of the Legislature to set a precedent granting retirement benefits retroactively after changes in the law.

SEC. 5. Section 20019.5 of the Government Code is repealed.

SEC. 6. Section 20022.2 of the Government Code is amended to read:

20022.2. Notwithstanding Section 20022, "compensation" shall not include any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division.

SEC. 7. Section 20023.2 of the Government Code is repealed.

SEC. 8. Section 20027 of the Government Code is amended to read:

20027. "Normal contributions" means contributions made by a member at the normal rates of contribution fixed by the law or by contract amendment, but does not include addditional contributions.

SEC. 9. Section 20230 of the Government Code is amended to read:

20230. In addition to other records and accounts, the board shall keep such records and accounts as may be necessary to compute at any time:

(a) The total accumulated contributions of members.

(b) The total acccumulated contributions of retired members and of deceased members, to or on account of whom payments involving life contingencies are paid, less the annuity payments made to such members.

(c) The accumulated contributions of the state and of contracting agencies held for the benefit of members on account of current service.

(d) All other accumulated contributions of the state and of contracting agencies, which shall include the amounts available to meet the obligation of the state and of the contracting agencies, respectively, on account of benefits that have been granted to or on account of retired and deceased employees and on account of prior service of members.

For purposes of this section, all employers of school members and local miscellaneous members shall be deemed a single contracting agency.

SEC. 10. Section 20331 of the Government Code is amended to read:

20331. Except as otherwise provided in this section, any person who on October 1, 1963, is employed by the university, and is a member of any retirement system maintained by the university, or who after that date enters university employment, shall be excluded from membership in this system.

A university member who is separated from university employment due to layoff and who is reemployed by the university shall have the right to elect, in accordance with regulations of the board of regents, membership in this system in lieu of membership in any retirement system maintained by the university, provided written notice of such election is filed with this system within 30 days

after his reemployment.

Any member who is employed as a member of the police department or fire department of the university and who elects, in accordance with regulations of the board of regents, to become a sworn officer member of a retirement system of the university in such employment shall be excluded from membership in this system in such employment after the date upon which he becomes a member of the university system. Such election shall not constitute a permanent separation from state service for purposes of a right to refund of accumulated contributions but shall constitute a discontinuance of employment as a member of this system and entry into employment as a member of the university system within the meaning of Section 20015.5.

SEC. 11. Section 20497.5 of the Government Code is amended to read:

20497.5. Notwithstanding the election given in Sections 20498 and 21251.14 of this part to contracting agencies, whether to subject themselves and their employees thereto, the contract of school districts in which the average daily attendance of all districts combined is in excess of 400,000 and which are governed by the same governing board, without action by the governing board, shall be subject to said sections and shall include all provisions authorized by Section 20498 to be included therein by contract amendment.

SEC. 12. Section 20741 of the Government Code is amended to read:

20741. The state's contribution to the retirement fund with respect to state miscellaneous members is a sum equal to 16.85 percent of the compensation paid such members by the state during fiscal year 1978–79, and 19.006 percent of such compensation paid during fiscal year 1979–80 and subsequent fiscal years.

SEC. 13. Section 20750 of the Government Code is amended to read:

20750. The contribution of the retirement fund of an employer, some or all of whose employees who are school or miscellaneous members have been included in the federal system, with a reduction in the service retirement allowance because of such inclusion, in respect to miscellaneous members is a sum equal to 7.26 percent of the compensation paid such members employed by such employer.

SEC. 14. Section 20750.1 of the Government Code is amended to read:

20750.1. The contribution of an employer, other than one subject to Section 20750, in respect to miscellaneous members is a sum equal to 7.75 percent of the compensation paid miscellaneous members employed by such employer.

SEC. 15. Section 20750.2 of the Government Code is amended to read:

20750.2. The state's contribution to the retirement fund in respect to state patrol members is a sum equal to 31.18 percent of the compensation paid state patrol members employed by such

employer.

SEC. 16. Section 20750.21 of the Government Code is repealed.

SEC. 17. Section 20750.22 of the Government Code is repealed.

SEC. 18. Section 20750.23 of the Government Code is repealed.

SEC. 19. Section 20750.27 of the Government Code is repealed.

SEC. 20. Section 20750.3 of the Government Code is amended to read:

20750.3. The state's contribution to the retirement fund for state safety members is a sum equal to 19.94 percent of the compensation paid to state safety members by the state on and after October 1, 1977.

SEC. 21. Section 20750.32 of the Government Code is repealed.

SEC. 22. Section 20750.33 of the Government Code is repealed.

SEC. 23. Section 20750.42 of the Government Code is amended to read:

20750.42. The state's contribution to the retirement fund with respect to state industrial members is a sum equal to the following percentages of the compensation paid state industrial members:

(a) 17.35 percent during October 1977 through June 1978.

(b) 18.35 percent during the 1978–79 fiscal year.

(c) 19.91 percent during the 1979–80 fiscal year.

SEC. 24. Section 20750.87 of the Government Code is repealed.

SEC. 25. Section 20750.88 of the Government Code is repealed.

SEC. 26. Section 20750.89 of the Government Code is repealed.

SEC. 27. Section 20750.92 of the Government Code is repealed.

SEC. 28. Section 20755 of the Government Code is amended to read:

20755. The contributions of the state and all employers with respect to miscellaneous members shall be applied by the board during each fiscal year to collectively meet the obligations with respect to miscellaneous members under this system as follows:

(a) First, in an amount equal to the liabilities accruing (1) because of state service of members for which normal contributions have been made, (2) on account of current service pensions and disability retirement pensions, and (3) the portion of death allowance provided from state and employer contributions. Such amount shall be determined by the most recent actuarial valuation as interpreted by the actuary.

(b) Second, in an amount equal to the payments of death benefits made from state and employer contributions during such year for deaths not qualifying for death allowances.

(c) Third, the balance of such contributions, on the liabilities accrued on account of prior service pensions.

SEC. 29. Section 20759.2 is added to the Government Code, to read:

20759.2. The contribution of a contracting agency described in Section 20759 in respect to miscellaneous members is increased by a sum equal to 0.08 percent of the compensation paid to such members by such employer.

SEC. 30. Section 20815 of the Government Code is amended to read:

20815. Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for such period of part-time employment, receive the credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits he is entitled to under this part, based upon the salary that he would have received if employed on a full-time basis if he and his employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. This section shall be applicable only to members who are academic employees of California State University and Colleges or who are certificated employees of school districts and who have met the criteria provided in Sections 44922 and 87483 of the Education Code or Section 89516 of the Education Code and are not older than 67 years and is limited to a period of five years of such part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

SEC. 31. Section 21025.5 of the Government Code is amended to read:

21025.5. Notwithstanding any other provision of this article, the retirement for disability of a member, other than a local safety member, who has been granted or is entitled to a leave of absence with compensation, which shall include nonindustrial disability insurance benefits payable pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division, shall not become effective prior to the expiration of such leave of absence with compensation, unless the member applies for or consents to his retirement as of an earlier date.

SEC. 32. Section 21212 of the Government Code is amended to read:

21212. Any person entitled to a benefit from this system may request that warrants in payment of the benefit be mailed to his bank, savings and loan association, or credit union, for deposit in his account. Such mailing is a full discharge of the board and this system.

SEC. 33. Section 21222.9 of the Government Code is repealed.

SEC. 34. Section 21252.5 of the Government Code is amended to read:

21252.5. The combined current and prior service pensions for a local safety member who is an employee of a contracting agency which is subject to the provisions of this section, is an annual pension which when added to the service retirement annuity that is derived from the accumulated normal contributions of the member shall equal the sum of the following:

(a) A temporary annuity based on age at retirement and length of service computed according to the following formula:

(1) 0.50 times the product of his age at retirement and his years of credited prior and current service not in excess of 20 years, plus

(2) 0.40 times the product of his age at retirement and his years of credited prior and current service in excess of 20 years.

(b) The percentage of final compensation set forth opposite his age at retirement in the following table multiplied by the number of years of credited current and prior service as a safety member in the employ of all contracting agencies subject to this section at the time of his retirement:

If retirement occurs at age:	The percent for each year of credited service is:
50	0.619
50¼	0.629
50½	0.640
50¾	0.650
51	0.661
51¼	0.673
51½	0.684
51¾	0.695
52	0.708
52¼	0.719
52½	0.731
52¾	0.744
53	0.756
53¼	0.769
53½	0.783
53¾	0.796
54	0.810
54¼	0.824
54½	0.839
54¾	0.853
55	0.868
55¼	0.884
55½	0.900
55¾	0.916
56	0.931
56¼	0.949
56½	0.966
56¾	0.983
57	1.001
57¼	1.020
57½	1.039
57¾	1.058
58	1.076
58¼	1.098
58½	1.118
58¾	1.138
59	1.159
59¼	1.183
59½	1.205

59¾	1.228
60	1.250
60¼	1.275
60½	1.300
60¾	1.325
61	1.350
61¼	1.375
61½	1.400
61¾	1.425
62	1.450
62¼	1.475
62½	1.500
62¾	1.525
63	1.550
63¼	1.575
63½	1.600
63¾	1.625
64	1.650
64¼	1.675
64½	1.700
64¾	1.725
65	1.750

The temporary annuity under subdivision (a) of this section shall not be subject to the optional settlements under Article 4 of this chapter and shall be payable monthly until the retired member attains or would have attained age 65. Should his death occur prior to age 65, the commuted value of any remaining installments shall be paid to his designated beneficiary in the manner provided in Section 21332.5 for payment of death benefits under optional settlement one.

The agency's liability for prior service shall be in the same proportion to the total reserves required as the years of credited prior service bear to the total years of credited service. The agency's liability for current service shall consist of the remainder of the total reserves required after deducting the liability for prior service and the accumulated normal contributions of the member.

This section shall apply only to a contracting agency which elected prior to October 1, 1965, by express provision of its contract or amendment thereto to be subject hereto.

The amendments to this section at the 1977–78 Regular Session of the Legislature shall be operative from January 1, 1977.

SEC. 35. Section 21257.2 of the Government Code is repealed.

SEC. 36. Section 21367.52 of the Government Code is amended to read:

21367.52. If the estate or designated beneficiary of a member retired under this system is entitled to receive a comparable lump-sum death benefit from any other retirement system supported in whole or in part by public funds in which he was a

member in employment subsequent to his last employment in which he was a member of this system, no payment shall be made under Section 21367.51 providing for payment of a lump-sum death benefit to a member's estate or designated beneficiary.

SEC. 37. Section 22016.5 of the Government Code is amended to read:

22016.5. Notwithstanding Section 22016, persons employed by the county superintendent of schools and whose salaries are paid from the county school service fund may be included as county employees or as employees of a separate public agency. The cost of any elections and the employer's contributions for such employees under this part are a proper charge against the county school service fund and such contribution shall be requisitioned and paid to the state as provided in Section 22550.5.

SEC. 38. Section 22215 of the Government Code is repealed.

SEC. 39. Section 22215 is added to the Government Code, to read:

22215. All acts and proceedings heretofore taken under this part by or on behalf of the state or any other public agency for inclusion of its employees in the federal system and all modifications to the agreement executed by the board pursuant to such acts and proceedings are hereby confirmed, validated and declared legally effective. This provision shall operate to supply such legislative authorization as may be necessary to validate such acts, proceedings, and modifications based thereon as the Legislature could have provided for inclusion of such employees in the federal system.

SEC. 40. Section 22751 of the Government Code is amended to read:

22751. This part may be cited as the Public Employees' Medical and Hospital Care Act.

As used in this code and in every other statute heretofore or hereafter enacted, or in every contract heretofore or hereafter entered into under any provision of law, the term "Meyers-Geddes State Employees' Medical and Hospital Care Act" shall be construed to refer to and to mean the Public Employees' Medical and Hospital Care Act.

SEC. 41. Section 22825.7 of the Government Code is amended to read:

22825.7. The employer or the board shall pay monthly to an employee or annuitant who is enrolled in, or whose family member is enrolled in, a health benefits plan under this part providing supplemental benefits for persons enrolled under health insurance provisions of Title XVIII of the federal Social Security Act, the amount of the standard charge exclusive of surcharge for late enrollment for insurance described in Part B under such act but not to exceed the difference between the maximum employer contribution under this article and the amount contributed by the employer to the cost of enrollment of the employee or annuitant and his family members in a health benefit plan or plans under this part. No payment shall be made in any month in which such difference

is less than one dollar ($1).

This section shall be applicable only to state employees and annuitants who were in state employment prior to their retirement and the family members of such annuitants.

With respect to annuitants, the board shall pay to the annuitant the amount required by this section from the same source from which their allowances are paid. Such amounts are hereby appropriated monthly from the General Fund to reimburse the board.

There is hereby appropriated from the appropriate funds the amounts required by this section to be paid to active state employees.

This section shall become operative January 1, 1978.

SEC. 42. The sum of thirty-one million four hundred thousand dollars ($31,400,000) is hereby appropriated for expenditure during the 1978–79 fiscal year as follows:

(a) To the University of California from the General Fund for the purpose of increasing the employer contribution rate for the state funded portion of the University of California Retirement System by 1.5 percent of payroll ..... $ 7,000,000

(b) To the Director of Finance for allocation to the Public Employees' Retirement System for payment of the 1 percent increase, from 15.85 percent to 16.85 percent, in contributions for miscellaneous members as required by Section 20741 of the Government Code $24,400,000

(1) From the General Fund $14,600,000

(2) From special funds $4,400,000

(3) From nongovernmental cost funds $5,400,000

SEC. 43. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

SEC. 44. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the benefits of this act may be available to state employees at the commencement of the 1978–79 fiscal year, it is necessary for this act to become effective immediately.

CHAPTER 1181

An act to amend Sections 4528, 4561, and 4587 of, to add Part 2.5 (commencing with Section 4790) to Division 4 of, the Public Resources Code, to amend Section 14143.5 of, and to add Sections 17226.5 and 24372.5 to, the Revenue and Taxation Code, relating to forestry, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 4528 of the Public Resources Code is amended to read:

4528. As used in this chapter:

(a) "Basal area per acre" means the sum of the cross-sectional areas at breast height of the tree stems of commercial species per acre.

(b) "Countable tree" means a tree that can be used in calculating the degree of stocking under the following criteria:

(1) The tree must be in place at least two growing seasons.

(2) The tree must be live and healthy.

(3) The tree must have at least one-third of its length in live crown, except in pure stands of Douglas fir the tree must have at least one-fourth of its length in live crown.

(4) The tree must be a commercial species from a local seed source or a seed source which the registered professional forester determines will produce commercial trees physiologically suited for the area involved.

(c) "Stocking" means a measure of the degree to which space is occupied by well-distributed countable trees.

(d) "Site classification" means the classification of productive potential of timberland into one of five classes by board regulation, consistent with normally accepted forestry practices. Site I shall denote sites of highest productivity, site II and site III shall denote sites of intermediate productivity potential, and site IV and site V shall denote sites of lowest productivity potential.

(e) "Fuel break" means a strip of modified fuel to provide a line from which to work in the control of fire.

(f) "Stream" means a natural watercourse as designated by a solid line or dash and three dots symbol shown on the largest scale United States Geological Survey map most recently published.

SEC. 2. Section 4561 of the Public Resources Code is amended to read:

4561. It is the purpose of this section to set forth resource conservation standards for timber operations, and to insure that a cover of trees of commercial species, sufficient to utilize adequately the suitable and available growing space, is maintained or established

after timber operations.

To that end, the following resource conservation standards define minimum acceptable stocking, and an area covered by a timber harvesting plan shall be classified as acceptably stocked if either of the following conditions exist within five years after completion of timber operations:

(a) The area contains an average point count of 300 per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site IV classification or lower, the minimum average point count shall be 150 per acre. Point count shall be computed as follows:

(1) Each countable tree which is not more than four inches in diameter at breast height to count as one.

(2) Each countable tree over four inches and not more than 12 inches in diameter at breast height to count as three.

(3) Each countable tree over 12 inches in diameter at breast height to count as six.

(b) The average residual basal area, measured in stems one inch or larger in diameter is at least 85 square feet per acre, except that in areas which the registered professional forester who prepares the timber harvesting plan has determined are site II classification or lower, the minimum average residual basal area shall be 50 square feet per acre.

The board, on a finding that it is in furtherance of the purposes of this chapter may encourage selection, shelterwood, or other types of management of timber where consistent with the biological requirements of the tree species and may regulate the size and shape of areas in which even-age management of timber is utilized.

Timberland harvested between January 1, 1974, and the adoption of stocking standards pursuant to this chapter shall be classified as adequately stocked if, as a result of stocking which has taken place subsequent to such harvest, the minimum standards specified in this section are met.

Rock outcroppings and other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

SEC. 3. Section 4587 of the Public Resources Code is amended to read:

4587. (a) Within five years after completion of timber operations on an area covered by a timber harvesting plan, a report of stocking shall be filed by the timber owner or his agent with the department. The board, by regulation, shall establish one or more statistically valid standardized sampling procedures which shall be designed to measure the number of trees and their dispersion.

(b) Notwithstanding the provisions of subdivision (a), the board shall promulgate regulations which specify the conditions and manner in which the necessity of employing sampling procedures may be waived. Such regulations shall provide that, in addition to any other possible conditions which may be required by the board, such

standard sampling procedures may be waived only if the director or his representative and the timber owner or a registered professional forester acting as his agent agree that the area is adequately stocked to meet the standards of this chapter and other applicable rules or regulations of the board. The regulations shall require that if the director or his representative does not agree that the area is so stocked, a standardized sample shall be required.

SEC. 4. Part 2.5 (commencing with Section 4790) is added to Division 4 of the Public Resources Code, to read:

PART 2.5. FOREST RESOURCES

CHAPTER 1. FOREST RESOURCES IMPROVEMENT

4790. The Legislature finds and declares that:

(a) Forest lands while often managed to produce wood fiber for building materials and paper manufacture also provide public benefits such as employment opportunities in both rural and urban areas, renewable energy, protection and enhancement of air, water and soil resources, fish and wildlife habitat, and opportunities for aesthetic and recreational enjoyment.

(b) Historically, substantial areas of forest land were not reforested, or otherwise managed for optimum production of forest resources, following harvest operations, wildfires, unsuccessful attempts to clear the land for other uses, or damage by insects, disease or other natural catastrophes. As a result, an estimated five million acres of public and private forest land in the state are producing substantially less forest resources than their potential. These areas are inadequately stocked with trees or are occupied by damaged or diseased trees or species of less value for sawtimber and other forest products. Some lands also have suffered from or are threatened with depletion by soil erosion. Fish habitats have also been adversely affected. In areas where forest regeneration has occurred, the present forest stand would often produce significantly greater timber supplies if thinning or other forest improvement investments were made.

(c) Future demand for timber supplies and other demands for forest resources are likely to rise substantially. Future supplies of these renewable resources are presently estimated to decline for a period and then to recover, but at a rate significantly slower than the rate of increase in demand.

(d) Wood waste products and tree or shrub species not normally utilized to produce building materials can provide opportunities for an alternative means to generate electrical energy or could be converted to solid, gaseous, or liquid fuels for transport or industrial use. Future supplies of wood products not usable for building materials, and, therefore potentially available for energy production, will be increased if forest resource improvements are made.

(e) The forest efficiently captures and stores solar energy. Wood

products can be produced with a significantly lower energy cost than most competing substitutes. This disparity is likely to increase in the future.

(f) A relatively small amount of forest land is currently being reforested, other than pursuant to the stocking requirements of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511) applicable following timber harvesting. Obstacles to private investments in reforesting or improving forest lands include: the extraordinarily long time required for such investments to produce income; the risk of loss due to fire, insect, or disease; lack of necessary forestry expertise or knowledge of the potential benefits of improved forest resource management; the difficulty of transferring capital invested in forest resource improvements to other investment opportunities, or otherwise using the funds for other needs, once the initial investment has been made; and the fact that some forest resource investments, such as erosion control measures, may not produce any income recognizable to the landowner.

(g) Over half the privately owned, commercial forest land in the state is owned by nonindustrial landowners. Forest resources which can be provided by these lands will be increasingly important in the future. Yet the owners of these lands often lack forestry expertise, economic incentive, or capital needed to make investments to increase present and future availability of forest resource benefits from their lands.

(h) Investments in public and private forest land are essential if adequate future timber supplies are to be available and if the forest resource system of soil, air, water, and vegetative and animal life is to be maintained in a productive condition for the future. Such investments will also lessen fire hazards and improve watershed protection following catastrophic destruction of forests and other vegetative cover by fire, wind, flood, insects, disease, and other causes.

(i) Failure to make the necessary investments will lead to higher prices for increasingly scarce forest products, lower rural and urban employment in the forest products and related industries and businesses, and the loss or diminished value of soils and other forest resources.

(j) Forest resource improvements made pursuant to the provisions of this chapter serve a public purpose and will promote the health, welfare, and economic security of the citizens of the state.

4790.5. The Legislature further declares that, except as specifically provided in this chapter the state shall not claim any right, title, or interest in the land, trees, or other vegetation which are the subject of a forest resource improvement project undertaken pursuant to this chapter. When carrying out this chapter, the director shall encourage the use of goods and services available through private forest nurseries, reforestation contractors, private forest consultants, or others in the business of undertaking forest

resource improvement work.

4791. The purpose of this chapter is to encourage private and public investments in, an improved management of, forest lands and resources within the state to ensure adequate future high quality timber supplies, related employment and other economic benefits, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations.

The primary emphasis of the program established by this chapter shall be upon improving the timber productivity of forest lands in the state; provided, that consistent with this primary goal, the program shall also be managed to improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect of the program is to improve the total forest resource system.

4792. In furtherance of the purposes of this chapter, the department is authorized to enter into agreements and make loans and otherwise carry out the purposes of this chapter. The forestry advisory program conducted by the department shall encourage forest resource improvements, and otherwise facilitate good forest land management, through a program of technical assistance, advice, and applied research. The purpose of such program shall be to work cooperatively with private landowners, particularly smaller nonindustrial landowners, to upgrade the management of their lands, and, therefore, improve both the productivity of the land and the degree of protection and enhancement of the forest resource system as a whole. The department is further authorized to encourage and cooperate with efforts by the forestry industry and federal government to improve the management of forest lands within the state, particularly lands owned by nonindustrial owners, through advisory services or other actions. The director shall work cooperatively with other private and public entities and persons, including tree nursery operators, when carrying out this part.

4793. As used in this chapter:

(a) "A county with high unemployment" means a county with an annual unemployment rate, as reported by the Employment Development Department, higher than the mean annual unemployment rate of "rate adjustment counties" as defined pursuant to the Timber Yield Tax Law (commencing with Section 38101 of the Revenue and Taxation Code).

(b) "Eligible landowner" means any person who meets the conditions set forth in Sections 4797 and 4799. Where ownership of forest land and timber is not held by the same person, "landowner" means either the person or persons owning the land or the person or persons owning the timber.

(c) "Fish and wildlife habitat improvements" means measures designed to protect, maintain, or enhance fish and wildlife habitat including, but not limited to, stream clearance, reestablishment of desirable vegetation along stream channels and elsewhere, measures to encourage habitat diversity, and restoration of anadromous

fisheries.

(d) "Followup work" means forest resource improvement work necessary to promote the survival of seed or seedlings planted, or protection or enhancement of other work undertaken, as part of a prior forest resource improvement project pursuant to this chapter.

(e) "Forest land" means land at least 10 percent occupied by forest trees of any size, or formerly having had such tree cover and not currently zoned for uses incompatible with forest resource management.

(f) "Forest land conservation measures" means measures designed to protect, maintain, or enhance the forest resource system, including soil and watershed values and diversity of forest species.

(g) "Forest land with demonstrated potential for improved forest resource management" means forest land which could produce significantly greater forest resource benefits if forest resource improvement work was carried out and which is not managed for uses incompatible with forest resource management.

(h) "Forest resources" means those uses and values associated with forest land, including fish, forage, recreation and aesthetics, soils, timber, watershed, wilderness, and wildlife.

(i) "Forest resource system" means the interdependent system of air, water, solar energy, and forest resources as defined by subdivision (h).

(j) "Forest resource improvement work" means the forest resource improvement measures enumerated in Section 4794 for which assistance is authorized pursuant to the provisions of this chapter.

(k) "Forest resource improvement project" means a project undertaken pursuant to Section 4795 or a loan made pursuant to Section 4796.

(*l*) "Management plan" means a long-term forest and land management plan submitted to the director pursuant to Section 4799.

(m) "Person" includes:

(1) Any private individual, organization, partnership, or corporation.

(2) Except for the purposes of Section 4795 and subdivision (a) of Section 4796, any city, county, or district.

(n) "Prevailing rate" means the average annual rate earned by the state on moneys deposited in the Pooled Money Investment Account in the General Fund.

(o) "Reforestation" means planting of tree seedlings, cuttings, or seed.

(p) "Restocked" means stocking to the degree required by the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

(q) "Small business entity" means a business enterprise, including a landowner, with five hundred thousand dollars ($500,000) or less annual gross revenue.

(r) "Smaller nonindustrial landowners" means owners of 5,000 acres or less of forest land.

(s) "Uses incompatible with forest resource management" means uses not listed in subdivision (h) of Section 51100 of the Government Code nor listed pursuant to Section 51111 of the Government Code by the city or county in which the parcel subject to a forest resource improvement project lies.

(t) "Young growth stand improvement" means precommercial thinning or weeding of young growth stands to provide more growing space and release of young trees from competing vegetation.

4794. (a) Agreements may be entered into and loans may be made by the director pursuant to this chapter for all of the following:

(1) Preparation of management plans for forest land.

(2) Site preparation.

(3) Planting and costs of seeds and seedlings.

(4) Young growth stand improvement.

(5) Forest land conservation measures.

(6) Fish and wildlife habitat improvement.

(7) Followup work.

Consistent with this section, the director shall prepare, and submit to the board for its review and approval, guidelines further specifying the scope of forest resource improvement work for which agreements may be entered into or loans made pursuant to this chapter.

(b) Proposed forest resource improvement projects may combine work described in paragraphs (1) to (7), inclusive, of subdivision (a). Except as provided in subdivision (c), projects must include work described in paragraphs (1), (2), (3), (4), or (7) of subdivision (a) to be eligible for a cost-sharing agreement signed pursuant to Section 4795 or loan made pursuant to Section 4796.

(c) Not less than 10 nor more than 15 percent of funds available for forest resource improvement projects shall be allocated each fiscal year by the director for agreements and loans pursuant to this chapter to be devoted to forest land conservation or fish and wildlife habitat improvement projects which do not also include work described in paragraph (1), (2), (3), (4), or (7) of subdivision (a).

(d) Projects for forest resource improvement subsequent to harvesting subject to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511) shall not be eligible for agreements executed pursuant to Section 4795 or loans made pursuant to Section 4796 of this chapter unless either:

(1) The land has been restocked and the established forest growth has subsequently been adversely affected by fire, wind, flood, insects, disease, or other natural causes.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

4795. (a) The director may enter into agreements with eligible

landowners pursuant to which the landowner will undertake forest resource improvement work in return for an agreement by the director to share the cost of carrying out such work. The director is authorized to share up to 90 percent of the lesser of either:

(1) The landowner's actual cost per acre to accomplish the work.

(2) The prevailing per acre cost as determined by the director pursuant to Section 4799.02.

(b) The director shall prepare a schedule of cost share percentages applicable to agreements undertaken pursuant to this section. Required landowner cost share contributions may be made in the form of materials, services, or equipment as well as funds. The cost share percentage schedule shall set forth the percentage of required landowner's project cost share for various categories of forest resource improvement projects. The percentage of cost sharing required of the landowner may be decreased if the ownership contains less than 500 acres.

(c) The percentage of cost sharing required of the landowner may also be decreased to the extent that:

(1) The project or other actions of the landowner would increase recreational opportunities for the public.

(2) The project would provide relatively more employment opportunities than other proposed projects.

(3) Forest land conservation measures or fish or wildlife habitat improvements are included in the project.

(d) Consistent with the criteria set forth in subdivisions (b) and (c), the director shall submit a schedule further specifying cost share percentages to the board for its review. The schedule shall apply to all agreements made pursuant to this section unless the board acts to change the schedule within 75 days of its submission by the director.

4795.5. A forest landowner who has entered into an undue hardship agreement with the Controller for the payment of inheritance taxes pursuant to Section 14143.5 of the Revenue and Taxation Code may apply annually to the director for a grant in the amount of 50 percent of the interest due on the annual installment paid in the current calendar year. To be eligible for such a grant the forest landowner must show that his or her forest land is subject to either:

(a) The provisions of a timberland preserve zone, pursuant to Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code; provided, that no petition is under consideration while the grant is being administered for rezoning pursuant to Section 51120 of the Government Code or immediate rezoning pursuant to Section 51130 of the Government Code.

(b) A contract pursuant to paragraph (2) of subdivision (e) of Section 4797.

Such annual installment must be paid on or before the anniversary date of the first installment payment, or the eligible landowner shall be disqualified from receiving a grant pursuant to this section. The

eligible landowner shall apply to the director subsequent to the current calendar year, in such form as the director may prescribe, and shall include proof of agreement with the Controller pursuant to Section 14143.5 of the Revenue and Taxation Code, proof of payment of the current calendar year's annual installment of inheritance taxes, and the amount of such installment payment which constituted interest. An eligible landowner who meets the requirements of this subdivision shall be deemed as having submitted an approved application. Within 60 days after receipt of an approved application, the director shall send to the eligible landowner by certified mail a check in the appropriate amount.

4796. The director may make the following types of loans relating to forest resource improvement projects:

(a) The director may make loans for forest resource improvement work to cover all or part of the landowner's cost share payment required pursuant to Section 4795. Any loan made pursuant to this subdivision may be made for a term not exceeding 20 years and shall bear interest at the prevailing rate. In order to secure repayment of the loan, such forest resource improvement loans shall be secured by a mortgage or deed of trust upon the parcel of land to which the forest improvement project applies. The director shall record the mortgage or deed of trust in the office of the county recorder in the county in which the real property subject to such resource improvement loan is located.

(b) The director may make loans for forest resource improvement work to landowners eligible pursuant to the provisions of subdivision (d) of Section 4797 for up to 100 percent of the lesser of either:

(1) The landowner's actual cost per acre to accomplish the work.

(2) The prevailing cost per acre as determined by the director pursuant to Section 4799.02.

Any loan made pursuant to this subdivision may be made for a term not exceeding 20 years and shall bear interest at the prevailing rate. In order to secure repayment of the loan, such forest resource improvement loans shall be secured by a mortgage or deed of trust upon the parcel of land to which the forest improvement project applies. The director shall record the mortgage or deed of trust in the office of the county recorder in the county in which the real property subject to such resource improvement loan is located.

(c) Any loan made pursuant to this section may be paid prior to the maturity date set forth in the loan agreement without an interest penalty being charged to the landowner.

(d) Payment of all or part of the principal and interest due under loans made pursuant to this chapter shall not be required upon a finding by the board that the parcel to which a forest resource improvement project applies, and which is subject to a loan:

(1) Has been substantially damaged by fire, flood, insects, disease or other natural causes; and

(2) The damage was not caused by the negligence or willful act of the landowner.

4797. To be eligible for participation in an agreement pursuant to Section 4795 or loan pursuant to Section 4796, the following conditions must be met:

(a) The application requirements of Section 4799 are satisfied.

(b) The landowner is a person owning forest land. Where the land is owned jointly by more than one individual, group, association, or corporation, as joint tenants, tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purposes of this chapter, as one eligible landowner.

(c) With respect to cost-sharing agreements made pursuant to Section 4795 or loans made pursuant to subdivision (a) of Section 4796, the amount of forest land in the state within the ownership of the landowner is 5,000 acres or less.

(d) With respect to loans made pursuant to subdivision (b) of Section 4796, the acreage of the parcel to which the proposed forest resource improvement project applies, together with the acreage included in any other such project subject to an agreement or loan executed or made pursuant to this chapter during the same fiscal year, does not exceed 500 acres; provided, that this limit shall not apply to forest resource improvement projects on lands that have been substantially damaged by fire, flood, insects, disease, or other natural causes within 36 months of submission of an application pursuant to this chapter.

(e) The parcel of forest land to which the forest resource improvement project applies is either:

(1) Within a timber preserve zone established pursuant to the provisions of Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code; provided, that the parcel of forest land is not the subject of an application for rezoning or immediate rezoning pursuant to Section 51120 or 51130 of the Government Code.

(2) Subject to a contract signed by the landowner providing that the owner agrees not to develop the land for uses incompatible with forest resource management within 10 years following execution of an agreement pursuant to Section 4795 or the making of a loan pursuant to Section 4796. The director shall record the contract in the office of the county recorder in the county in which such parcel of land is located and, upon recordation, the contract shall be binding upon any person to whom such parcel of land is sold, assigned, devised, or otherwise transferred by agreement or operation of law.

4797.5. (a) Any cost share payments advanced pursuant to Section 4795 shall be refunded to the director in the event of either:

(1) The filing of an application for rezoning or immediate rezoning pursuant to Section 51120 or 51130 of the Government Code within 10 years of the date an agreement was signed pursuant to Section 4795.

(2) A violation of the contract entered into pursuant to subdivision (e) of Section 4797.

The refund shall bear interest at the prevailing rate from the time

of the violation as specified in clause (1) or (2) of this subdivision.

(b) Any loan made pursuant to Section 4796 shall immediately become due and payable in the event of either:

(1) The filing of an application for rezoning or immediate rezoning pursuant to Section 51120 or 51130 of the Government Code within 10 years of the making of a loan pursuant to Section 4796.

(2) A violation of the contract entered into pursuant to subdivision (f) of Section 4797.

The refund shall bear interest at the prevailing rate from the time of the violation as specified in clause (1) or (2) of this subdivision.

(c) Upon failure by the landowner to refund such payments or loans, the director may place a lien upon the parcel of property to which a forest resource improvement project applied. The director shall record such lien at the appropriate county office.

4798. Cost share payments or loans pursuant to this chapter may be made for forest resource improvement work which is also the subject of payments or other assistance provided pursuant to federal law; provided, that payments or loans may not be made pursuant to this chapter to satisfy landowner cost share requirements of, or repay loans received pursuant to federal law; and provided, further, that the combined state and federal payments, and any required landowner cost share payments, do not together exceed the amount of the actual cost to the landowner or the prevailing cost per acre as determined by the director pursuant to Section 4801, whichever is less.

4799. In addition to the requirements of Section 4797, to be eligible to participate in agreements pursuant to Section 4795, or receive loans pursuant to Section 4796, the landowner shall do all of the following:

(a) Submit a long-term forest and land management plan for approval by the director. In the event that the proposed project includes preparation of the management plan, the plan need not be completed at the time of application; provided, that no other forest resource improvement project on forest lands within the same ownership not covered by a management plan may be approved by the director until the management plan has been approved pursuant to this subdivision. The plan shall cover all forest lands within the same ownership which include or are contiguous to the parcel to which a proposed forest resource improvement project applies. The plan shall set forth an analysis of forest land conditions and capabilities, including its original forest type if determinable. The plan shall describe the landowner's management objectives and shall provide for the eventual harvest of sawtimber within a reasonable period of time, as determined by the preparer of the plan. The plan shall also describe the forest resource improvement work and other measures necessary to do all of the following:

(1) Protect, maintain, and enhance the forest resource system.

(2) Prevent or mitigate erosion, deterioration of soil resources, and pollution by natural and manmade causes.

(3) Optimize the timber growth potential of the land consistent with maintaining the productivity of related forest resources now and in the future.

The plan shall be prepared or approved as to content by a registered professional forester. Such a plan, when approved by the director, shall fulfill the requirements of paragraph (2) of subdivision (c) of Section 51113 of the Government Code. Consistent with this section, the director shall prepare, and submit to the board for its review and approval, guidelines specifying the factors to be considered and information which should be included in management plans submitted pursuant to this section.

(b) Submit a project application in the form prescribed by the director containing such information as the director deems necessary to evaluate the proposed forest resource improvement project.

(c) Agree to comply with state or federal laws applicable to the work carried out pursuant to the proposed forest resource improvement project.

(d) Agree to comply with such forest land conservation measures and fish and wildlife habitat protection guidelines as may be set forth as part of the cost-sharing agreement or loan agreement executed pursuant to Section 4795 or 4796. Such measures shall be designed to insure that work carried out pursuant to such agreements is conducted in a manner to protect, enhance, and maintain the forest resource system to the greatest degree feasible. In the event that required land conservation measures or fish and wildlife habitat protection guidelines are not followed and significant damage to the forest resources occurs as a result, the director may take corrective action in accordance with the procedures of Sections 4607, 4608, 4609, 4610, and 4611.

4799.01. (a) When allocating available funds among projects proposed pursuant to this chapter, the director shall select those projects which in the judgment of the director produce the greatest public benefit, giving consideration to the following factors:

(1) The need for and potential benefits of forest resource establishment or improvement were the project to be undertaken.

(2) The need for and potential benefits to long-term production, maintenance, and enhancement of the forest resource system resulting from forest land conservation measures, fish and wildlife habitat improvements, or other work.

(b) The director shall give increased preference to projects to the extent that the project applies to forest land which has been substantially damaged by fire, flood, insects, disease, or other natural causes within 36 months of submission of an application pursuant to this chapter.

(c) The director shall also give preference to projects to the extent that each of the following factors are present:

(1) The project involves a substantial amount of followup work as defined pursuant to subdivision (d) of Section 4793.

(2) The project or other actions of the landowner would increase

recreational opportunities for the public.

(3) The forest land to which the project applies is equivalent to site quality III or better.

(4) The project would provide relatively more employment opportunities than other proposed projects.

(5) The project is located in a county with high unemployment.

(6) A small business entity will carry out the proposed project.

(d) Consistent with the criteria set forth in subdivisions (a), (b) and (c), the director shall prepare and submit to the board proposed guidelines further specifying the criteria for evaluation and approval of forest resource improvement projects. The board shall review, approve, or amend the guidelines which the director shall follow when carrying out the provisions of this chapter.

(e) The director shall establish, in consultation with interested persons or agencies and with the review and approval of the board, procedures for the review of proposed forest resource improvement projects. Such procedures shall insure that specialists in the areas of water quality, erosion control, and fish and wildlife protection are integrated into the review of proposed forest resource improvement projects.

4799.02. To carry out the provisions of this chapter and to facilitate participation in the program authorized by this chapter, the director may promulgate such regulations, guidelines, or publications as the director deems appropriate. Such regulations, guidelines, or publications shall be submitted to the board for review or approval when required by this chapter and, even if not required, when deemed appropriate by the director for his or her guidance. Regulations, guidelines, or publications shall specify:

(a) The scope of forest resource improvement work, as described by Section 4794, for which agreements may be entered into or loans made pursuant to Section 4795 or 4796.

(b) The prevailing cost of performing various types and methods of forest resource improvement work under various site conditions throughout the forest land of the state, as required by Sections 4795 and 4796.

(c) Cost share percentage schedules as required by Section 4795.

(d) Procedures to be followed in the event of a violation of a cost-sharing or loan agreement pursuant to Section 4795 or 4796 or default of payment of loan principal or interest pursuant to Section 4796.

(e) Consistent with subdivision (g) of Section 4793, criteria to determine forest lands which have demonstrated potential for improved forest resource management and may, therefore, be eligible for forest resource improvement projects under the provisions of paragraph (2) of subdivision (e) of Section 4797.

(f) Factors to be considered and information which should be included in management plans submitted pursuant to Section 4799.

(g) A standard application form for forest resource improvement projects submitted under Section 4795 or 4796.

(h) Forest land conservation measures and fish and wildlife habitat protection guidelines to be followed in the performance of forest resource improvement projects work as provided by Section 4799.

(i) Guidelines for evaluation and approval of proposed forest resource improvement projects as required by subdivision (d) of Section 4799.01.

(j) Procedures for the review by the director and interested persons or agencies of proposed forest resource improvement projects pursuant to subdivision (e) of Section 4799.01.

(k) Such other matters as the director deems necessary for the effective administration of the provisions of this chapter.

4799.03. (a) The director shall work cooperatively with other public agencies of local, state, and federal government to encourage such agencies to undertake forest resource improvement work and otherwise accomplish the purposes of this chapter. The director is authorized to enter into contracts or cooperative agreements with such agencies to provide:

(1) Technical assistance.

(2) Necessary supervisorial personnel.

(3) Tree seed, tree cuttings, or seedlings.

(4) Necessary equipment.

(5) Such other assistance as may be necessary and appropriate to accomplish the purposes of this chapter.

(b) In carrying out the provisions of this chapter, the director shall cooperate with the Employment Development Department, the California Conservation Corps, the Cooperative Extension, resource conservation districts, industry, and other interested agencies or persons for the purpose of training needed workers and facilitating wherever feasible the creation of forest resources improvement work opportunities. The department or other state agencies are authorized to utilize state lands for the purposes of carrying out needed training pursuant to this subdivision.

(c) The director shall also endeavor to work cooperatively with other persons and public agencies to provide opportunities for voluntary, unpaid forest resources improvement work by persons who may be interested in volunteering for such work.

4799.04. To effectuate the purposes of this chapter, the department is authorized to:

(a) Collect or contract for adequate supplies of high-quality seed and take whatever steps are necessary to insure to the maximum degree feasible that seeds or seedlings planted as part of forest resource improvement projects undertaken pursuant to this chapter are adapted to the planting site and measures are taken to assure appropriate diversity of forest species.

(b) Contract for seedling production and, in cooperation with other state, local, and federal agencies, encourage the production of seedlings needed to accomplish reforestation in the state by small business entities in or near areas where planting will be carried out.

(c) Provide technical assistance to private seedling nurseries and

conduct a program for certification of the quality and adaptability of seeds and tree seedlings supplied for forest resource improvement projects undertaken pursuant to this chapter.

(d) Increase availability of genetically improved seed and planting stock by expansion of seed orchards or other recognized tree improvement techniques.

(e) In cooperation with other public and private entities or persons:

(1) Conduct necessary research and take other appropriate measures to protect the genetic integrity and diversity of forest tree species, including, but not limited to, a seed depository.

(2) Conduct research and make grants or enter into contracts or cooperative agreements with public and private entities or persons concerning measures to increase the contribution of trees to improve the natural environment and economy of the state and measures to otherwise accomplish the purposes of this chapter.

(f) Purchase necessary equipment or materials and, in accordance with the State Civil Service Act (commencing with Section 18570 of the Government Code), appoint such deputies, officers, and other employees as may be necessary.

(g) In cooperation with other public and private entities and persons, establish such training and educational programs as may be appropriate to increase the number of workers with necessary skills to carry out seed collection, seedling production, and forest resource improvement projects.

(h) To accept grants and donations of equipment, seedlings, materials, or funds from any source for the purpose of supporting or facilitating forest resource improvement work undertaken pursuant to the provisions of this chapter. Any funds received shall be deposited by the director in the Forest Resource Improvement Fund established pursuant to Chapter 3 (commencing with Section 4799.13) of this part.

4799.05. (a) The director shall submit a report to the board and the Legislature by December 31, 1980, and by December 31 annually thereafter, concerning progress made to implement the provisions of this chapter, including a summary of the forest resource improvement work undertaken and any silvicultural, administrative, statutory, or other problems encountered in meeting the purposes of this chapter. The summary shall include information concerning the number of acres covered by forest resource improvement projects, the number of projects undertaken, the total amount of funds expended and subtotals for principal types of forest resource improvement work, size and type of land ownerships, geographical distribution of forest resource improvement projects, and the number of persons employed.

(b) A Forest Improvement Committee shall be appointed by the State Board of Forestry, giving consideration to the recommendations of the director. The committee shall report to the board and the director by June 30, 1980, at which time the committee

will expire. Subject to guidance by the board and in consultation with the director, the Forest Improvement Committee's mandate will be to study a range of issues relating to forest land management including, but not limited to, options for increasing future timber supplies and making California forest lands more productive, incentives necessary to insure private sector participation in forest resource improvement activities and the generation of suitable nursery stock, public recreational use of private forest land, development of public education program, urban encroachment into timberland preservation zones, conversion of timberland preservation zones, fish and wildlife habitat improvement, soil resource protection, and the effectiveness of federally or privately funded forest improvement activities. The Forest Improvement Committee shall include individuals representing a range of interests and expertise relating to forest resources in the state, including forest landowners, public interests, and government agencies. The Forest Improvement Committee shall be chaired by the Chairman of the State Board of Forestry.

(c) The board shall submit a report to the Secretary of the Resources Agency and the Legislature by December 31, 1981, setting forth an evaluation of the accomplishments and problems encountered by the department in carrying out the purposes and provisions of this chapter. The report shall also make any recommendations deemed appropriate by the board for legislative or administrative changes to better achieve the purposes of this chapter.

CHAPTER 2. URBAN FORESTRY

4799.06. This chapter shall be known and may be cited as the California Urban Forestry Act of 1978.

4799.07. The Legislature finds and declares that:

(a) Trees serve as a vital resource in the urban environment and as an important psychological link with nature for the urban dweller.

(b) Trees are a valuable economic asset in our cities. They help maintain or increase property values and attract business and new residents in urban areas.

(c) Trees play an important role in energy conservation by the modification of temperature extremes, humidity, and winds. This role is particularly important in reducing the amount of energy consumed in heating and cooling buildings and homes, and potentially in producing a local fuel and energy source.

(d) Trees directly reduce air pollution by removing airborne particulates from the atmosphere and helping to purify the air.

(e) Trees also help reduce noise, provide habitat for songbirds and other wildlife, reduce surface runoff and protect urban water resources, and enhance the aesthetic quality of life in the city.

(f) Growing conditions in urban areas for trees and associated plants have worsened so that many California cities are now losing

more trees than are replaced.

4799.08. The purpose of this chapter is to:

(a) Arrest the decline of our urban forest resources, facilitate the planting of trees in the city, and improve the quality of the environment in urban areas through establishment and improved management of urban forest resources.

(b) Facilitate the creation of permanent jobs in tree maintenance and related urban forestry activities in neighborhood, local, and regional urban areas.

(c) Maximize the potential of tree and vegetative cover in reducing energy consumption and producing fuel and other products.

(d) Encourage the coordination of state and local agency activities in urban forestry and related programs and encourage maximum citizen participation in their development and implementation.

4799.09. As used in this chapter:

(a) "Urban forestry" means the cultivation and management of trees in urban areas for their present and potential contribution to the physiological, sociological, and economic well-being of urban society.

(b) "Urban forest" means those native or introduced trees and related vegetation in the urban and near-urban areas including, but not limited to, street trees, park trees, residential trees, natural riparian habitats, and trees on other private and public properties.

(c) "Urban area" means an urban place, as that term is defined by the United States Department of Commerce, of 2,500 or more persons.

4799.10. (a) The department is authorized to implement a program in urban forestry to encourage better tree management and planting in urban areas, to assist the cities in seeking innovative solutions to problems such as tree maintenance and vandalism, encourage demonstration projects to maximize the benefits of urban forests, and otherwise accomplish the purposes of this chapter.

The department shall assume the primary responsibility in carrying out the intent of this chapter in cooperation with other private and public entities or persons and appropriate local, state, and federal agencies such as the Cooperative Extension, the Department of Parks and Recreation, the Department of Transportation, resource conservation districts, and the United States Forest Service.

(b) The department shall be the agent of the state and shall have full power to cooperate with those agencies of the federal government which have powers and duties concerning urban forestry, and shall perform all things necessary to secure for this state the benefits of federal urban forestry programs.

To facilitate implementation of this chapter, the director is authorized to enter into agreements and contracts with local agencies having forestry-related jurisdictional responsibilities and established and operating urban forestry programs. The director

shall consult with such agencies when carrying out the provisions of this chapter in their respective areas.

4799.11. (a) The department shall provide technical assistance to urban areas with respect to:

(1) Planning for regional, county, and local land use analysis projects related to urban forestry.

(2) Preparation of urban tree plans and the selection of trees in large-scale landscaping and reforestation efforts.

(3) Development and coordination of training programs for neighborhood and local agency tree planting and maintenance crews.

(4) Advice to cities, counties, districts, and regional entities, homeowner neighborhood groups, and nonprofit organizations on tree disease, insect problems, tree planting, and maintenance.

(5) The role of forest ecology in planning for the future of urban areas, including air quality, watershed problems, and energy conservation.

(6) Retention of native trees and riparian habitats.

(7) Any other matter relating to the purposes of this chapter.

(b) The department and other state agencies are also authorized to assist local tree maintenance programs by making surplus equipment available on loan where feasible for regional and local urban forestry, including nonprofit organizations involved in urban tree care.

4799.12. The director, with advice from other appropriate state agencies and interested parties, may make grants to provide asssistance of 25 to 90 percent of project cost for projects meeting guidelines established by the board upon recommendation by the director. The board shall establish such guidelines by December 31, 1979. Grants may be made to cities, counties, districts, and nonprofit organizations. Contributions required as a condition of grants made pursuant to this section may be made in the form of material, services, or equipment, as well as funds. Authorized assistance shall include:

(a) Funding for development of urban tree plans which include coordination of local agency efforts and citizen involvement.

(b) Provision of seedling and tree stock.

(c) Funding and other assistance for demonstration projects in urban forestry with special attention given to energy conservation and wood and fiber utilization projects.

(d) Other categories of projects recommended by the director and approved by the board.

CHAPTER 3. FOREST RESOURCES IMPROVEMENT FUND

4799.13. (a) There is hereby created in the State Treasury, the Forest Resources Improvement Fund, which is continuously appropriated for the purposes of this part.

(b) The Forest Resources Improvement Fund shall be the

depository for all revenue derived from the repayment of loans made or interest received pursuant to Chapter 1 (commencing with Section 4790) of this part.

(c) This part shall become operative, and activities shall be carried out pursuant to this part only in the event, and to the extent, that funding is made available for such activities by the federal government, private institutions or organizations, or any source other than the State General Fund.

(d) The director is authorized to accept grants and donations of equipment, seedlings, labor, materials, or funds from any source for the purpose of supporting or facilitating activities undertaken pursuant to the provisions of this part. Any funds received shall be deposited by the director in the Forest Resources Improvement Fund.

CHAPTER 4. ENERGY PRODUCTION

4799.14. The department is authorized to conduct surveys, studies, and research concerning the economic and environmental costs, benefits, and feasibility of utilizing wood wastes and forest growth for thermal processes, including, but not limited to, the generation of electrical energy or conversion to solid, gaseous, or liquid fuels for transport or industrial use. Such studies shall include research concerning the cost of gathering and transporting logging wastes and other materials from timber management operations to potential markets and the identification of locations for conversion facilities and forest management operations with high potential for utilization of wood for energy production.

4799.15. The department is further authorized to provide technical and other assistance to public and private agencies and persons with respect to forest management, species selection, and other matters as to which the department has special expertise, in order to encourage and facilitate utilization of wood for energy production.

4799.16. The department shall coordinate its activities and cooperate with the State Energy Resources Conservation and Development Commission in the development of surveys, studies, and research concerning the utilization of wood waste and forest growth for energy. The department shall also coordinate its activities with other public and private agencies to insure that the activities of the department and such other agencies are not duplicative and the maximum benefit occurs from actions taken by the department to carry out its responsibilities pursuant to this chapter.

SEC. 5. Section 14143.5 of the Revenue and Taxation Code is amended to read:

14143.5. If the Controller finds that payment of any tax imposed by this part as a prerequisite to distribution would result in undue hardship to the estate, he may enter into a written agreement for payment of the tax with the executor, administrator, trustee or

transferee liable for its payment upon such terms and conditions as the Controller in his discretion may provide, and provided that the Controller finds that payment of the tax plus interest due thereon is adequately secured. Upon filing such agreement with the Controller and court having jurisdiction, the court shall incorporate the agreement in the final decree of distribution and the estate of the person who made the transfer on which the tax is imposed may be distributed.

Undue hardship shall include, but not be limited to, the hardship resulting from the payment of taxes imposed pursuant to the provisions of this part on Class A beneficiaries on a qualified family property, and shall include the inability to secure a loan against such qualified property at a rate of interest at the rate specified in Section 14211 or less or the necessity for selling an interest in a family business to unrelated persons.

Qualified family property is defined as property which has been used primarily in the operation of a family business, farm, or timber-growing enterprise.

For purposes of this section, family business is defined as:

(a) An interest as a proprietor in a trade or business carried on as a proprietorship, or

(b) An interest as a partner in a partnership carrying on a trade or business if

(1) Fifty percent or more of the total capital interest in such partnership was owned by the transferor and his or her spouse, lineal ancestor, lineal issue or mutually acknowledged child, and

(2) Such partnership had 10 or fewer partners.

(c) Stock in a corporation carrying on a trade or business if:

(1) Fifty percent or more in value of the voting stock of such corporation was owned by the decedent and his or her spouse, lineal ancestor, lineal issue or mutually acknowledged child, and

(2) Such corporation had 10 or fewer shareholders.

SEC. 6. Section 17226.5 is added to the Revenue and Taxation Code, to read:

17226.5. (a) Every taxpayer shall be entitled to elect a deduction with respect to the amortization of the amortizable basis of any forest land improvement as defined in subdivision (b), based on a period of 60 months or more. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the forest land improvement at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization period shall begin at the election of the taxpayer with the month following the month in which such forest land improvement was completed or with the succeeding taxable year.

(b) For the purposes of this section, a forest land improvement

shall consist of all or a portion of the costs of labor, materials, and use of equipment required to:

(1) Reestablish commercial tree species pursuant to the requirements of Section 4561 of the Public Resources Code.

(2) Accomplish forest resource improvement work as defined by subdivision (j) of Section 4793 of the Public Resources Code.

(c) The election of the taxpayer to take the amortization deduction and to begin the amortization period with the month following the month in which the forest land improvement is completed, or with the taxable year succeeding the taxable year in which such forest land improvement is completed, shall be made by filing a statement of such election in such manner, in such form, and within such time as the Franchise Tax Board prescribes.

(d) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of the forest land improvement which may be amortized under this section.

(e) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(f) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

SEC. 7. Section 24372.5 is added to the Revenue and Taxation Code, to read:

24372.5. (a) Every taxpayer, at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any forest land improvement located in California as defined in subdivision (b), based on a period of 60 months or more. Such amortization deduction shall be an amount with respect to each month of such period within the income year, equal to the amortizable basis of the forest land improvement at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization period shall begin at the election of the taxpayer with the month following the month in which such forest land improvement was completed or with the succeeding income year.

(b) For the purposes of this section, a forest land improvement shall consist of all or a portion of the costs of labor, materials, and use of equipment required to:

(1) Reestablish commercial tree species pursuant to the requirements of Section 4561 of the Public Resources Code and

(2) Accomplish forest resource improvement work as defined pursuant to subdivision (j) of Section 4793 of the Public Resources Code.

(c) The election of the taxpayer to take the amortization

deduction and to begin the amortization period with the month following the month in which the forest land improvement is completed, or with the income year succeeding the taxable year in which such forest land improvement is completed, shall be made by filing a statement of such election in such manner, in such form, and within such time as the Franchise Tax Board prescribes.

(d) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of the forest land improvement which may be amortized under this section.

(e) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

SEC. 8. Sections 1 to 7, inclusive, of this act shall be known and may be cited as the California Forest Improvement Act of 1978.

CHAPTER 1182

An act to add Section 6018.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 6018.4 is added to the Revenue and Taxation Code, to read:

6018.4. A licensed chiropractor is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, vitamins, minerals, dietary supplements, and orthotic devices used or furnished by him in the performance of his professional services.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect; however, it shall become operative on the first day of the first calendar quarter more than 25 days after its effective date.

CHAPTER 1183

An act to amend Sections 1313, 1317, 1318, 1320, 1325, 1326, 1346, 1347, 1391, 1392, 1393, 1394, 1431, 1510, 1513, 1520, 1531, 1532, 1541, 1542, and 1580 of, and to repeal Sections 1313.1, 1325.1, and 1356 of, the Code of Civil Procedure, relating to unclaimed property.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1313 of the Code of Civil Procedure is amended to read:

1313. A fund is hereby created in the State Treasury, to be known as the Unclaimed Property Fund.

All money, except permanently escheated money, paid to the state or any officer or employee thereof for deposit in the State Treasury under the provisions of this title shall, on order of the Controller, be deposited in the Unclaimed Property Fund.

All property other than money, including the proceeds from the sale or other disposition thereof, except permanently escheated property received by, or coming into the possession of, the state or any officer or employee thereof under the provisions of this title shall, on order of the Controller, be deposited in the State Treasury to be held in the Unclaimed Property Fund.

SEC. 2. Section 1313.1 of the Code of Civil Procedure is repealed.

SEC. 3. Section 1317 of the Code of Civil Procedure is amended to read:

1317. The amount of each canceled warrant credited to the Unclaimed Property Fund under the provisions of Section 17072 of the Government Code shall, on order of the Controller, be transferred to the General Fund.

SEC. 4. Section 1318 of the Code of Civil Procedure is amended to read:

1318. All interest received and other income derived from the investment of moneys in the Unclaimed Property Fund, as provided in Section 13470 of the Government Code, shall, on order of the Controller, be deposited in the General Fund.

SEC. 5. Section 1320 of the Code of Civil Procedure is amended to read:

1320. Except as otherwise provided in Section 1318, all rents, interest, dividends or other income or increment derived from real or personal property that has permanently escheated to the state, shall, on order of the Controller, be deposited in the General Fund.

All moneys deposited in the General Fund under the provisions of this section shall be deemed to have permanently escheated to the state as of the date of permanent escheat of the property from which such moneys were derived.

SEC. 6. Section 1325 of the Code of Civil Procedure is amended to read:

1325. All money in the Unclaimed Property Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for expenditure for the following purposes:

(a) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund;

(b) For payment of the cost of title searches and appraisals incurred by the Controller covering real or personal property held in the name of an account in such fund;

(c) For payment of the cost incurred by the Controller covering indemnity bonds required in order to have duplicate certificates of ownership issued in order to replace lost certificates, covering personal property held in the name of an account in such fund;

(d) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner, pursuant to the provisions of trust deeds, mortgages, or other liens on real property held in the name of an account in such fund;

(e) For payment of costs incurred by the Controller for the repair, maintenance and upkeep of real and personal property held in the name of an account in such fund;

(f) For payment of costs of official advertising in connection with the sale of real or personal property held in the name of an account in such fund;

(g) For payment to taxing agencies of the amounts deducted by the Controller from allowed and approved claims, in accordance with the provisions of subdivision (c) of Section 4986.5 of the Revenue and Taxation Code;

(h) For transfer to the Inheritance Tax Fund, on order of the Controller, of the amount of any inheritance taxes determined to be due and payable to the state by any claimant, with respect to any real or personal property, including cash, claimed by him under the provisions of this title;

(i) For payment and delivery to claimants of money or other property held to the credit, or in the name, of an account in such fund, under the provisions of this title;

(j) For transfer to the General Fund, on order of the Controller, of any money or other property in the Unclaimed Property Fund which becomes permanently escheated to the state under the provisions of this title.

Any expenditure made by the Controller pursuant to the provisions of this section shall be charged against any balance credited to the particular account in the Unclaimed Property Fund, in the name of which is held the real or personal property for which the expenditure is made; and if sufficient balance is not available in such account, the expenditure may be made from any appropriation from the General Fund for the support of the Controller, or, in the case of official advertising, from any appropriation available therefor, to be reimbursed from the proceeds of any subsequent sale of the

property for which such expenditure is made.

SEC. 7. Section 1325.1 of the Code of Civil Procedure is repealed.

SEC. 8. Section 1326 of the Code of Civil Procedure is amended to read:

1326. Any obligation incurred or expenditure made by the Controller pursuant to subdivisions (b) to (e), inclusive, of Section 1325, which is in excess of two hundred dollars ($200), shall be subject to the approval of the State Board of Control prior to incurring such obligation.

SEC. 9. Section 1346 of the Code of Civil Procedure is amended to read:

1346. Whenever any person has erroneously delivered any unclaimed money or other unclaimed property to the state or any officer or employee thereof, and such money or other property is deposited in, or transferred to, the General Fund, or is held by the Controller or Treasurer in the name of such fund, pursuant to the provisions of this title, such money or other property delivered in error, if cash, shall on order of the Controller, be transferred from the General Fund to the Unclaimed Property Fund, and, if other than cash, the records of the Controller and Treasurer shall be adjusted to show that it is held in the name of the proper account in the Unclaimed Property Fund; and any such money or other property may be refunded or returned to such person on order of the Controller, with the approval of the State Board of Control.

SEC. 10. Section 1347 of the Code of Civil Procedure is amended to read:

1347. Whenever money deposited in the Unclaimed Property Fund is transferred to the General Fund under the provisions of this title, and whenever the records of the Controller and Treasurer covering property other than money held in the name of any account in the Unclaimed Property Fund are adjusted to record such property as held in the name of the General Fund, as permanently escheated property under the provisions of this title, if it is subsequently determined that such money or other property is not, in fact, permanently escheated, such money or other property, if cash, shall, on order of the Controller, be retransferred from the General Fund to the Unclaimed Property Fund; and, if the property is other than money, the records of the Controller and Treasurer shall be adjusted to show that it is held in the name and for the benefit of the proper account in the Unclaimed Property Fund.

SEC. 11. Section 1356 of the Code of Civil Procedure is repealed.

SEC. 12. Section 1391 of the Code of Civil Procedure is amended to read:

1391. The Controller shall deliver to the Treasurer the proceeds of any sale or lease of permanently escheated property made pursuant to this chapter; and, on order of the Controller, the amount thereof shall be deposited in the General Fund. All moneys deposited in the General Fund under the provisions of this section shall be deemed to have permanently escheated to the state as of the date of

permanent escheat of the property from which such moneys were derived.

SEC. 13. Section 1392 of the Code of Civil Procedure is amended to read:

1392. The proceeds of any transaction by the Controller under the provisions of this chapter in connection with property received and held by the state under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of this title shall be credited by the Controller to the estate from which the property affected by the transaction was received; or, if such property has permanently escheated to the state, to the account in the General Fund to which the permanently escheated cash derived from estates of deceased persons is credited.

SEC. 14. Section 1393 of the Code of Civil Procedure is amended to read:

1393. The proceeds of any transaction by the Controller under the provisions of this chapter, in connection with property received and held by the state under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of this title, for the benefit of unlocated heirs, devisees or legatees of estates of deceased persons, shall be credited by the Controller to such heirs, devisees or legatees of the property affected by such transaction; or, if such property has permanently escheated to the state, to the account in the General Fund to which the permanently escheated cash derived from estates of deceased persons is credited.

SEC. 15. Section 1394 of the Code of Civil Procedure is amended to read:

1394. The proceeds of any transaction by the Controller under the provisions of this chapter in connection with property received and held by the state under the provisions of this title, for the benefit of the persons entitled thereto, shall be credited by the Controller to such persons; or, if the property affected by such transaction has permanently escheated to the state, to the account in the General Fund in the name of which such permanently escheated property was recorded.

SEC. 16. Section 1431 of the Code of Civil Procedure is amended to read:

1431. When money in the Unclaimed Property Fund has become permanently escheated to the state, the amount thereof shall, on order of the Controller, be transferred to the General Fund. When property other than money held by the Controller or Treasurer in the name of any account in the Unclaimed Property Fund has become permanently encheated to the state, the records of the Controller and Treasurer shall bs adjusted to show that such property is held in the name of the General Fund.

SEC. 17. Section 1510 of the Code of Civil Procedure is amended to read:

1510. Unless otherwise provided by statute of this state, intangible personal property escheats to this state under this chapter

if the conditions for escheat stated in Sections 1513 through 1521 exist, and if:

(a) The last known address, as shown on the records of the holder, of the apparent owner is in this state.

(b) No address of the apparent owner appears on the records of the holder and:

(1) The last known address of the apparent owner is in this state; or

(2) The holder is domiciled in this state and has not previously paid the property to the state of the last known address of the apparent owner; or

(3) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner.

(c) The last known address, as shown on the records of the holder, of the apparent owner is in a state that does not provide by law for the escheat of such property and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

(d) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

SEC. 17.5. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Any demand, savings, or matured time deposit made with a banking organization, together with any interest or dividends thereon, excluding, from demand deposits only, any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, when the owner, for more than seven years, has not:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

(b) Any funds paid toward the purchase of shares, or any matured investment certificate, or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding any service charges the amount of which is specifically

provided by federal statute or regulation of a federal agency and which do not (where paid or made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the State Controller, when the owner, for more than seven years, has not:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

No financial organization may discontinue any interest or dividends on any funds paid toward purchase of shares or other interest, or on any deposit, because of the inactivity contemplated by this section.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such association.

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft, certified check, or money order, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

SEC. 18. Section 1520 of the Code of Civil Procedure is amended to read:

1520. All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained

unclaimed by the owner for more than seven years after it became payable or distributable escheats to this state.

For purposes of this section, "lawful charges" means charges which are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 19. Section 1531 of the Code of Civil Procedure is amended to read:

1531. (a) Within 120 days from the final date for filing the reports required by Section 1530, the State Controller shall cause a notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in each county in this state in which is located:

(1) The last known address, as listed in the reports, of any person named in the reports as the apparent owner of property escheated to this state under this chapter; or

(2) If no address of any apparent owner named in the reports is listed, or if the address listed in the reports for any apparent owner named therein is outside this state, the principal place of business within this state of the holder of the escheated property.

(b) Each published notice shall be entitled "notice of names of persons appearing to be owners of unclaimed property," and shall contain the names in alphabetical order and last known addresses, if any, of:

(1) Those apparent owners listed in the reports as having a last known address within the county;

(2) Those apparent owners listed as having a last known address outside this state or as having no last known address in a report filed by a holder with his principal place of business within the county; and

(3) The insured or annuitant in the case of funds described in Section 1515 if:

(i) The report does not list the name of the apparent owner of the funds and his last known address; and

(ii) The last known address of the insured or annuitant is within the county.

(c) Each published notice shall also contain:

(1) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Controller.

(2) A statement that, if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction before a date specified in the notice (which shall be the date five months from the final date for filing the report), the property will be placed, not later than one month after such date, in the custody of the State Controller and all further claims must thereafter be directed to the State Controller.

(d) The State Controller is not required to publish in such notice any item of less than twenty-five dollars ($25) unless he deems such publication to be in the public interest.

(e) Within 120 days from the final date for filing the report required by Section 1530, the State Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more escheated under this chapter.

(f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the State Controller and all further claims must be directed to the State Controller.

(g) This section is not applicable to sums payable on travelers checks, money orders, and similar written instruments that escheat under subdivision (c), (d), or (e) of Section 1513.

SEC. 20. Section 1532 of the Code of Civil Procedure is amended to read:

1532. (a) Except as otherwise provided in subdivisions (b) and (c), every person who has filed a report as provided by Section 1530 shall, within six months from the final date for filing reports as required by Section 1530, pay or deliver to the State Controller all escheated property specified in the report.

(b) If any person establishes his right to receive any property specified in the report to the satisfaction of the holder before such property has been delivered to the State Controller, or if it appears that for some other reason the property is not subject to escheat under this chapter, the holder need not pay or deliver the property to the State Controller, but in lieu thereof shall file with the State Controller a written explanation of the proof of claim or of the reason the property is not subject to escheat.

(c) In the case of sums payable on travelers checks, money orders, and similar written instruments, which escheat under subdivisions (c), (d), and (e) of Section 1513, such sums shall be paid to the State Controller not later than 20 days after the final date for filing the report.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the State Controller. Upon delivery of a duplicate certificate to the State Controller, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering such duplicate certificate shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of such certificate issued to the State Controller for any losses or damages resulting to such person

by the issuance and delivery to the State Controller of such duplicate certificate.

(e) Payment of any intangible property to the State Controller shall be made at the office of the State Controller in Sacramento or at such other location as the State Controller by regulation may designate. Except as otherwise agreed by the State Controller and the holder, tangible personal property shall be delivered to the State Controller at the place where it is held.

SEC. 21. Section 1541 of the Code of Civil Procedure is amended to read:

1541. Any person aggrieved by a decision of the State Controller or as to whose claim the Controller has failed to make a decision within 90 days after the filing of the claim, may commence an action, naming the State Controller as a defendant, to establish his claim in the superior court in any county or city and county in which the Attorney General has an office. The action shall be brought within 90 days after the decision of the State Controller or within 180 days from the filing of the claim if the State Controller fails to make a decision. The summons and a copy of the complaint shall be served upon the State Controller and the Attorney General and the State Controller shall have 60 days within which to respond by answer. The action shall be tried without a jury.

SEC. 22. Section 1542 of the Code of Civil Procedure is amended to read:

1542. (a) At any time after property has been paid or delivered to the State Controller under this chapter, another state is entitled to recover the property if:

(1) The property escheated to this state under subdivision (b) of Section 1510 because no address of the apparent owner of the property appeared on the records of the holder when the property was escheated under this chapter, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state;

(2) The last known address of the apparent owner of the property appearing on the records of the holder is in such other state and, under the laws of that state, the property has escheated to that state;

(3) The property is the sum payable on a travelers check, money order, or other similar instrument that escheated to this state under Section 1511, the travelers check, money order, or other similar instrument was in fact purchased in such other state, and, under the laws of that state, the property escheated to that state; or

(4) The property is funds held or owing by a life insurance corporation that escheated to this state by application of the presumption provided by subdivision (b) of Section 1515, the last known address of the person entitled to the funds was in fact in such other state, and, under the laws of that state, the property escheated to that state.

(b) The claim of another state to recover escheated property under this section shall be presented in writing to the State

Controller, who shall consider the claim within 90 days after it is presented. He may hold a hearing and receive evidence. He shall allow the claim if he determines that the other state is entitled to the escheated property.

(c) Paragraphs (1) and (2) of subdivision (a) do not apply to property described in paragraph (3) or (4) of that subdivision.

SEC. 23. Section 1580 of the Code of Civil Procedure is amended to read:

1580. The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

CHAPTER 1184

An act to amend Section 1531 of, and to add Section 1531.1 to, the Code of Civil Procedure, and to add Section 19286.6 to the Revenue and Taxation Code, relating to unclaimed property.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1531 of the Code of Civil Procedure is amended to read:

1531. (a) Within 120 days from the final date for filing the reports required by Section 1530, the State Controller shall cause a notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in each county in this state in which is located:

(1) The last known address, as listed in the reports, of any person named in the reports as the apparent owner of property escheated to this state under this chapter; or

(2) If no address of any apparent owner named in the reports is listed, or if the address listed in the reports for any apparent owner named therein is outside this state, the principal place of business within this state of the holder of the escheated property.

(b) Each published notice shall be entitled "notice of names of persons appearing to be owners of unclaimed property," and shall contain the names in alphabetical order and last known addresses, if any, of:

(1) Those apparent owners listed in the reports as having a last known address within the county;

(2) Those apparent owners listed as having a last known address outside this state or as having no last known address in a report filed by a holder with his principal place of business within the county; and

(3) The insured or annuitant in the case of funds described in Section 1515 if:

(i) The report does not list the name of the apparent owner of the funds and his last known address; and

(ii) The last known address of the insured or annuitant is within the county.

(c) Each published notice shall also contain:

(1) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing any inquiry to the State Controller.

(2) A statement that, if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction before a date specified in the notice (which shall be the date five months from the final date for filing the report), the property will be placed, not later than one month after such date, in the custody of the State Controller and all further claims must thereafter be directed to the State Controller.

(d) The State Controller is not required to publish in such notice any item of less than fifty dollars ($50) unless he deems such publication to be in the public interest.

(e) Within 120 days from the final date for filing the report required by Section 1530, the State Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more escheated under this chapter.

(f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the State Controller and all further claims must be directed to the State Controller.

(g) This section is not applicable to sums payable on travelers checks, money orders, and similar written instruments that escheat under Section 1511.

SEC. 1.5. Section 1531.1 is added to the Code of Civil Procedure, to read:

1531.1. The State Controller shall establish and maintain a procedure to locate the owners of unclaimed property received pursuant to this title. The State Controller shall report to the Joint Legislative Budget Committee by December 31, 1979, regarding the effectiveness of this procedure.

Notwithstanding any other provision of law, upon request of the State Controller, any state or local governmental agency shall furnish to the State Controller from its records the address, or other

identification or location information which could reasonably be used to locate an owner of unclaimed property.

If the address or other identification or location information requested by the State Controller is deemed confidential under any laws or regulations of this state, it shall nevertheless be furnished to the State Controller. However, neither the State Controller nor any officer, agent, or employee of the State Controller may use or disclose any such information except as may be necessary in attempting to locate the owner of unclaimed property.

In the case where a fee or charge is customarily made by the agency for the information requested by the State Controller, the State Controller shall pay such customary fee or charge.

SEC. 2. Section 19286.6 is added to the Revenue and Taxation Code, to read:

19286.6. (a) Subject to the limitations of this section and federal law, the Franchise Tax Board may provide the State Controller with the address or other identification or location information from income tax returns or other records which is necessary for the State Controller to locate owners of unclaimed property pursuant to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(b) Neither the State Controller nor any officer, employee, or agent, or former officer, employee, or agent of the State Controller may disclose or use any information obtained from the Franchise Tax Board pursuant to this section except for the purpose of locating owners of unclaimed property as provided in subdivision (a) of this section.

SEC. 3. It is the intention of the Legislature that any additional staff personnel required by the State Controller to implement the provisions of this act shall be funded through the savings in advertising costs realized as a result of this act.

CHAPTER 1185

An act to amend Sections 17922.7, 17923, 17951, and 35854 of the Health and Safety Code, relating to housing.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 17922.7 of the Health and Safety Code is amended to read:

17922.7. (a) Except as otherwise provided in subdivisions (b) and (c), the governing body of every city, county, city and county, and public entity shall adopt ordinances or regulations imposing the same requirements as are contained in the rules and regulations

adopted pursuant to Section 17922.6 within six months after the date of adoption of such rules and regulations. The rules and regulations adopted pursuant to Section 17922.6 shall apply in any city, county, city and county, or to any hotel, motel, apartment house, or dwelling, other than a detached single-family dwelling, which is owned, operated, or maintained by any public entity, if the appropriate governing body fails to adopt such ordinances or regulations within six months after such date of adoption.

(b) In adopting such ordinances or regulations, the governing body of any city, county, city and county, or public entity may make such changes, modifications, or additions to the minimum requirements contained in the rules and regulations adopted pursuant to Section 17922.6, as such governing body determines are reasonably necessary due to local conditions. The governing body may also impose noise insulation standards on a case by case basis on new single-family detached dwellings, if the governing body determines that such standards are necessary due to substantial noise generated by airports, roadways, or commercial and industrial activities immediately surrounding or adjacent to such proposed dwellings. Any noise insulation standards adopted for single-family detached dwellings shall not exceed comparable standards for multifamily housing. The governing body shall find that ordinances or regulations, adopted pursuant to this subdivision, will require the diminution of the noise levels permitted by the rules and regulations adopted pursuant to Section 17922.6.

(c) Prior to making such modifications, changes, or additions pursuant to subdivision (b), the governing body shall make an express finding that such modifications, changes, or additions are needed, which finding shall be available as a public record. A copy of such finding, together with the modification, change, or addition, shall be filed with the Office of Noise Control.

SEC. 2. Section 17923 of the Health and Safety Code is amended to read:

17923. (a) The provisions of Section 17922 are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part and the rules and regulations promulgated pursuant thereto, providing such alternate has been approved. The department may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this part and the rules and regulations promulgated pursuant thereto in performance, safety, and for the protection of life and health.

(b) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part and the rules and regulations promulgated pursuant thereto, or in order to substantiate claims for alternates, the department may require tests as proof of

compliance to be made at the expense of the owner or his agent.

SEC. 3. Section 17951 of the Health and Safety Code is amended to read:

17951. (a) The governing body of any city or county may prescribe fees for permits, certificates, or other forms or documents required or authorized by this part or rules and regulations promulgated pursuant thereto.

(b) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part, provided any such alternate has been approved.

The building department of any city or county may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this part in performance, safety, and for the protection of life and health.

The building department of any city or county shall require evidence that any material, appliance, installation, device arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, and rules and regulations promulgated pursuant thereto and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

SEC. 4. Section 35854 of the Health and Safety Code, as added by Assembly Bill No. 1032 of the 1977–78 Regular Session of the Legislature, is amended to read:

35854. Nothing contained in this part shall apply to, or be construed to, affect any housing accommodation in any of the following categories:

(a) Any housing accommodation designed and operated exclusively for senior citizens or retirees, and their spouses, or any nursing home, convalescent home, or retirement home.

(b) Any housing accommodation, leased, owned, or operated by any public or private postsecondary educational institution, which is reserved primarily for either single or married students or for students with minor dependents who live with them.

SEC. 5. Section 4 of this act shall become operative only if Assembly Bill No. 1032 and this bill are both chaptered and become effective on January 1, 1979, Assembly Bill No. 1032 is chaptered before this bill, and Assembly Bill No. 1032 adds Section 35854 to the Health and Safety Code.

CHAPTER 1186

An act to amend Sections 404 and 4600 of the Penal Code, relating to riots.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 404 of the Penal Code is amended to read:

404. (a) Any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot.

(b) As used in this section, disturbing the public peace may occur in any place of confinement. Place of confinement means any state prison, county jail, industrial farm, or road camp, or any city jail, industrial farm, or road camp.

SEC. 2. Section 4600 of the Penal Code is amended to read:

4600. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail, prison, or any public property in any jail or prison, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damage or injury to any city, city and county or county jail property is determined to be two hundred dollars ($200) or less, he is guilty of a misdemeanor.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1187

An act to amend Section 14051 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 14051 of the Revenue and Taxation Code is amended to read:

14051. There shall be allowed to each class A transferee an inheritance tax credit where a tax has been paid on a prior transfer from a prior decedent to a present decedent under the following conditions and limitations:

(a) (1) The present decedent must have been a class A transferee of the prior decedent;

(2) The present decedent must have died within five years from the date of death of the prior decedent; and

(3) That no tax was levied against either estate under Section 13441 or 13442.

(b) The amount of the tax credit allowed a class A transferee is a fraction of the inheritance tax charged to the present decedent in the estate of the prior decedent.

The numerator of this fraction is the clear market value of all transfers subject to tax under this part which the class A transferee receives from the present decedent.

The denominator of this fraction is the clear market value of all transfers subject to tax under this part made by the present decedent.

(c) For the purposes of this section "property subject to tax under this part" includes the value of the property exempted under Article 1 (commencing with Section 13801), Article 3 (commencing with Section 13821), Article 5 (commencing with Section 13861), and Article 6 (commencing with Section 13871) of Chapter 5 of this part, and Sections 13694, 13695, 13696 and 13697.

CHAPTER 1188

An act to amend Section 5141 of, and to add Sections 538 and 5152 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 538 is added to the Revenue and Taxation Code, to read:

538. (a) If the assessor believes that a specific provision of the Constitution of the State of California, of this division, or of a rule or regulation of the board is unconstitutional or invalid, and as a result thereof concludes that property should be assessed in a manner contrary to such provision, or the assessor proposes to adopt general interpretation of a specific provision of the Constitution of the State of California, or this division, or of a rule or regulation of the board, that would result in a denial to five or more assessees in that county of an exemption, in whole or in part, of their property from property

taxation, the assessor shall, in lieu of making such an assessment, bring an action for declaratory relief against the board under Section 1060 of the Code of Civil Procedure. The court shall allow intervention in such action by potential assessees and other assessors under Section 387 of the Code of Civil Procedure to the greatest extent practicable.

(b) If the assessor obtains judgment in such action upholding the validity of such assessment, the assessor shall correct the roll in accordance with Section 4831 consistent with such judgment within 60 days of the date upon which the judgment becomes final, regardless of the time limit otherwise provided in Section 4831. The assessor shall not levy an assessment based upon the subject matter of the action under any other section of this division.

(c) Within 60 days of notice of such assessment, a person assessed under subdivision (b) may file a claim for refund relating to the assessment of any of the person's property for the fiscal year to which the assessment under subdivision (b) relates regardless of the time limit otherwise provided in Section 5097.

SEC. 2. Section 5152 is added to the Revenue and Taxation Code, to read:

5152. In an action in which the recovery of taxes is allowed by the court, if the court finds that the void assessment or void portion of the assessment was made in violation of a specific provision of the Constitution of the State of California, of this division, or of a rule or regulation of the board, and the assessor should have followed the procedures set forth in Section 538 in lieu of making the assessment, the plaintiff shall be entitled to reasonable attorney's fees as costs in addition to the other allowable costs. This section is ancillary only, and shall not be construed to create a new cause of action nor to be in lieu of any other provision of law.

SEC. 2.5. Section 5141 of the Revenue and Taxation Code is amended to read:

5141. (a) An action brought under this article shall be commenced within six months from and after the date that the board of supervisors or city council rejects a claim for refund in whole or in part.

(b) Except as provided in subdivision (c), if the board of supervisors or city council fails to mail notice of its action on a claim for refund within six months after the claim is filed, the claimant may, prior to mailing of notice by the board of supervisors or city council of its action on the claim, consider the claim rejected and bring an action under this article.

(c) If an applicant for the reduction of an assessment states in the application that the application is intended to constitute a claim for refund pursuant to Section 5097, the claim for refund shall be deemed denied on the date the final installment of the taxes extended on such assessment becomes delinquent or on the date the equalization board makes its final determination on the application, whichever is later.

SEC. 3. There shall be no reimbursement to any local agency or school district by reason of the operation of this act, since no such agency or district will incur an actual loss of revenue by reason of this act.

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

The Legislature has adopted urgency legislation in the past to prevent severe hardship that would be caused to various sectors of the state by the operation of the property tax laws. Certain assessors have chosen not to follow such legislation, resulting in assessments causing the very hardship sought by the Legislature to be avoided. This act must go into effect immediately to eliminate the further potential harm from such action by assessors, especially with respect to Sections 225 and 253.10 of the Revenue and Taxation Code.

CHAPTER 1189

An act to add Section 1202.5 to the Penal Code, relating to auto theft.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1202.5 is added to the Penal Code, to read:

1202.5. (a) Notwithstanding the provisions of Section 1203 and subject to subdivision (b) of this section, no person convicted of violating Section 499b of this code, Section 10851 of the Vehicle Code, or Section 487 of this code for theft of an automobile or other vehicle, shall be granted probation or have the execution or imposition of sentence suspended when any pecuniary loss was sustained by the owner of the automobile or vehicle or the owner's assignee unless reimbursement for such loss or restitution is ordered as a condition of probation. If restitution is ordered, the court shall fix the amount of such loss by receiving such evidence as necessary.

Notwithstanding Section 1203.1,

(1) If restitution is ordered as a condition of probation, the court shall establish a reimbursement schedule not to exceed 10 years. If at any time during this period, full restitution is made, the court shall refix the probationary period pursuant to the provisions of Section 1203.1.

(2) Payments shall be made to the owner of the automobile or vehicle or the owner's assignee through the probation officer of the county in which the defendant was convicted.

(3) The court may, in addition, order the defendant's California

driver's license suspended for a period not to exceed 120 days.

(b) The court shall order restitution as a condition of probation pursuant to this section. If the defendant fails to make the restitution so ordered, his probation shall be revoked by the court pursuant to Section 1203.2, unless the defendant can show, at the revocation hearing, that he does not have the ability to pay.

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

CHAPTER 1190

An act to amend Sections 1420 and 1420.15 of the Labor Code, relating to fair employment practices.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1420 of the Labor Code is amended to read:

1420. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ him or to refuse to select him for a training program leading to employment, or to bar or to discharge such person from employment or from a training program leading to employment, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his physical handicap, is unable to perform his duties, or he cannot perform such duties in a manner which would not endanger his health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such

duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of his medical condition, is unable to perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership such person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or

safety of others.

(e) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden under this act or because he has filed a complaint, testified or assisted in any proceeding under this part.

(f) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(g) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

SEC. 2. Section 1420.15 of the Labor Code is amended to read:

1420.15. Every employer in this state, except a public agency, shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to do so, to continue his employment beyond the normal retirement date contained in any private pension or retirement plan.

Such employment shall continue so long as the employee demonstrates his ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

This section shall not be construed to require any change in funding, benefit levels, or formulas of any existing retirement plan, or to require any employer to increase such employer's payments for the provision of insurance benefits contained in any existing employee benefit or insurance plan, by reason of such employee's continuation of employment beyond the normal retirement date, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or for two years after the effective date of this section, whichever occurs first.

Any employee indicating such desire and continuing such employment shall give the employer written notice in reasonable time, of intent to retire or terminate when such retirement or termination occurs after the employee's normal retirement date.

Nothing in this section or Section 1420.1 shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is either:

(a) Serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure at an institution of higher education as defined by Section 120(a) of the Federal Higher Education Act of 1965, or;

(b) For the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profitsharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $27,000.

CHAPTER 1191

An act to amend Section 20009.1 of the Government Code, relating to retirement systems.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION. 1. Section 20009.1 of the Government Code is amended to read:

20009.1. "Public agency" also includes the following:

(a) The office of county superintendent of schools with respect to its employees whose compensation is not paid from county funds and with respect to employees of school districts within the jurisdiction of the superintendent which are not contracting agencies.

(b) The Commandant, Veterans Home of California, with respect to employees of the post exchange and other post fund activities whose compensation is paid from the post fund of the Veterans Home of California.

(c) Any foundation or trust established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of a state or junior college.

(d) Any student body or nonprofit organization composed exclusively of students of a state or junior college or of members of the faculty of a state or junior college, or both, and established for the purpose of providing essential activities related to but not normally included as a part of the regular instructional program of the state or junior college.

(e) The Adjutant General with respect to persons employed by him pursuant to federal regulations and compensated directly from federal funds.

(f) A state organization which is authorized under subdivision (e) of Section 35172 or 72630 of the Education Code.

(g) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20009.

(h) A section of the California Interscholastic Federation.

(i) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of the Public Employees' Retirement System or the State Teachers' Retirement System, and their immediate families, and employees of any such credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of the Public Employees' Retirement System or the State Teachers' Retirement System. The credit union shall pay

any costs that are in addition to the normal charges required to enter into a contract with the board. All such payments made by the credit union which are in addition to the normal charges required shall be added to total amount appropriated by the budget act for the administrative expense of the system.

CHAPTER 1192

An act relating to synthetic fuels.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. (a) The Legislature hereby declares that it is the policy of the state to foster development of a synthetic fuels industry capable of supporting the needs of the people of California by encouraging:

(1) The utilization of biomass feed-stock which converts the energy of the sun into solid materials (plant life) which can then be harvested.

(2) The construction of facilities capable of converting the biomass into readily usable synthetic solid, liquid, and gaseous fuels.

(3) The development of markets and technologies capable of utilizing such synthetic fuels in place of natural coal, gas, and oil-based products.

(4) The appropriate taxes, subsidies, variances, special permits, and agency assignments to aid in establishing a synthetic fuels industry within the private sector within the next decade.

(b) This act is not intended and shall not be construed as altering or superseding:

(1) The policies or priorities established pursuant to another statute, or

(2) The discretionary authority of any public agency in carrying out the duties and responsibilities required of such agency by law.

CHAPTER 1193

An act to amend Section 832.3 of the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 832.3 of the Penal Code is amended to read:

832.3. (a) Except as provided in subdivision (b), any sheriff, undersheriff, or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, for the purposes of the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall successfully complete a course of training approved by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(b) For the purpose of standardizing the training required in subdivision (a), the commission shall develop a training proficiency testing program, including a standardized examination, which enables (1) comparisons between presenters of such training and (2) development of a data base for subsequent training programs. Presenters approved by the commission to provide the training required in subdivision (a) shall administer the standarized examination to all graduates. Nothing in this subdivision shall make the completion of such examination a condition of successful completion of the training required in subdivision (a).

SEC. 2. Section 832.3 of the Penal Code is amended to read:

832.3. (a) Except as provided in subdivision (b), any sheriff, undersheriff, or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, for the purposes of the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall successfully complete a course of training approved by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(b) For the purpose of standardizing the training required in subdivision (a), the commission shall develop a training proficiency testing program, including a standardized examination, which enables (1) comparisons between presenters of such training and (2) development of a data base for subsequent training programs. Presenters approved by the commission to provide the training shall administer the standardized examination to all graduates. Nothing in this subdivision shall make the completion of such examination a condition of successful completion of the training required in subdivision (a).

(c) Notwithstanding subdivision (c) of Section 84500 of the Education Code and any regulations adopted pursuant thereto, community colleges may give preference in enrollment to employed

law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist of nonlaw enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for such courses shall be reported for state aid.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1126 are both chaptered and become effective January 1, 1979, both bills amend Section 832.3 of the Penal Code, and this bill is chaptered after Senate Bill No. 1126, that Section 832.3 of the Penal Code, as amended by Section 1 of Senate Bill No. 1126 be further amended on the operative date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 832.3 proposed by this bill. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 1126 are both chaptered and become effective January 1, 1979, both bills amend Section 832.3, and this bill is chaptered after Senate Bill No. 1126, in which case Section 2 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 4. The sum of forty-eight thousand six hundred forty-six dollars ($48,646) is hereby appropriated from the Peace Officer Training Fund to the Commission on Peace Officer Standards and Training for the period January 1 to July 1, 1979. The commission shall annually request appropriate funding to carry out the intent of this legislation.

SEC. 5. This act shall become operative July 1, 1979.

CHAPTER 1194

An act to amend Section 832 of the Penal Code, relating to peace officers.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 832 of the Penal Code is amended to read:

832. (a) Every person described in this chapter as a peace officer, shall receive a course of training in the exercise of his powers to arrest and a course of training in the carrying and use of firearms. The course of training in the carrying and use of firearms shall not be required of any peace officer whose employing agency prohibits the use of firearms. Such courses shall meet the minimum standards prescribed by the Commission on Peace Officer Standards and Training.

(b) (1) Every such peace officer described in this chapter, within

90 days following the date that he was first employed by any employing agency, shall, prior to the exercise of the powers of a peace officer, have satisfactorily completed the course of training as described in subdivision (a).

(2) Every peace officer described in Section 832.3 shall satisfactorily complete the training required by this section as part of the training and under the limitations set forth in Section 832.3.

(c) Persons described in this chapter as peace officers who have not so satisfactorily completed the courses described in subdivision (a) as specified in subdivision (b), shall not have the powers of a peace officer until they satisfactorily complete such courses.

(d) Any peace officer who on the effective date of this section possesses or is qualified to possess the basic certificate as awarded by the Commission on Peace Officer Standards and Training shall be exempted from the provisions of this section.

CHAPTER 1195

An act to add and repeal Chapter 8.5 (commencing with Section 3110) to Division 4 of Title 1 of the Government Code, relating to volunteers.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Chapter 8.5 (commencing with Section 3110) is added to Division 4 of Title 1 of the Government Code, to read:

CHAPTER 8.5. VOLUNTEERS

Article 1. General

3110. This chapter shall be known and may be cited as the California State Government Volunteers Act.

3111. As used in this chapter:

(a) "Volunteer" means any person who, of his own free will, provides goods or services, without any financial gain, to any state agency, as defined in Section 11000;

(b) "Administrative volunteer" means any person serving voluntarily on boards, commissions or other similar bodies with California state government; and

(c) "Direct service volunteer" means any person involved in specific volunteer service that includes one to one relationships or assistance to recipients of government services.

3112. The Legislature finds and declares that:

(a) Since the spirit of volunteerism has long animated generations

of Americans to give of their time and abilities to help others, the state would be wise to make use of volunteers in state service wherever practically possible.

(b) The spirit of citizen initiative and self-reliance that has prevailed throughout the United States for over the past two centuries needs to be recognized and fostered whenever possible in meeting the basic human needs in the state.

(c) In every community or neighborhood there are individuals who, by their personality, concern, experience, commitment, and training, can serve as citizen action leaders.

(d) There presently exists sufficient resources to assist citizen action efforts. There are an infinite number of skilled, experienced community groups, and volunteer organizations available to help mobilize citizen initiatives. Such groups include business and fraternal organizations, churches, women's organizations, voluntary action centers, schools and other community organizations in both the public and private sectors.

(e) Legal and market disincentives and impediments need to be eliminated in order to establish an optimum environment for citizen initiative and volunteer action.

(f) There is a need for a clearinghouse, to provide information concerning resources and alternatives to foster self-reliance and citizen action.

(g) It is not the intent of the Legislature that volunteers replace or supplant public employees, where such employees are providing services deemed necessary for the government to perform, but that they add new dimensions to providing of governmental services.

3112.5. This chapter shall remain in effect only until December 31, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

Article 2. Office for Citizen Initiative and Voluntary Action

3113. There is in the Office of the Governor an Office for Citizen Initiative and Voluntary Action, hereinafter referred to as "office", to advocate and encourage citizen initiative and volunteer action.

3114. The office shall be administered by a director who shall be appointed by and report to, the Governor. The office shall submit an annual report to the Legislature of its activities and shall include in this report, the number of volunteers in state government. The first report of the office shall be submitted to the Legislature no later than June 30, 1979, and shall contain specific objectives developed by the office and means of accomplishing those objectives by December 31, 1981. Subsequent reports to the Legislature shall include the following:

(a) An assessment of the progress the office is making with respect to the initial objectives set forth in the first report;

(b) Recommendations for legislation, personnel practices and

other relevant material;

(c) Any analyses, critiques, recommendations, and other pertinent information, provided by the Public Employee Review Committee.

3115. In addition to funds otherwise provided, the office shall be supported by federal funds. Initial state funding for the office for fiscal year 1978–79 shall be allocated from the Governor's Contingency Fund.

3116. In order to maximize the involvement of volunteers in state government, the office is, hereby, authorized in order to develop effective citizen involvement to assist state departments and agencies to recruit, train, and accept the services of volunteers, including direct service volunteers or administrative volunteers, to supplement the programs administered by each state department.

Specific authorization is, hereby, granted to the office to:

(a) Take such actions as are necessary and appropriate to promote the active participation of volunteers to enhance and enrich state programs;

(b) Take such actions as are necessary and appropriate to ensure a receptive and open climate for citizen volunteers within state government and develop meaningful opportunities for volunteers involved in state programs; and

(c) Take such actions as are necessary to ensure that volunteers and paid staff understand their respective duties and responsibilities, their relationship to each other, and their respective roles in fulfilling the objectives of state government, including clearly established policies which specify that volunteers are not intended to supplant or replace regular public employees but are to augment regular staff functions and programs.

3117. The goals of the office shall be as follows:

(a) To foster the spirit of citizen initiative and voluntary action among businesses, industries and individual citizens in the community;

(b) To enable adequate communication and collaboration whereby individuals and agencies may converse with each other to initiate new programs or improve existing programs for citizen initiative and voluntary action at the local level;

(c) To identify untapped human, technical and material resources that can be mobilized for the public good through citizen initiative and voluntary action;

(d) To open up the process of government and social institutions and to provide a common ground for two fundamental concepts, i.e., volunteerism and citizen initiative, to be brought together in mutually supportive relationships as a basis for better service; and

(e) To achieve an effective and permanent expansion of citizen initiative and voluntary action in community problem solving and citizen participation in the delivery of government services.

Article 3. Volunteers

3118. All volunteers shall comply with applicable department and other state policy and regulations. It shall be the responsibility of the state department in which a volunteer participates to insure this compliance.

3119. Each state department or division is hereby authorized to utilize the services of volunteers. Each state department or division utilizing the services of volunteers shall:

(a) Provide sufficient staff for the effective management and development of volunteer programs.

(b) Develop written rules governing job descriptions, recruitments, screening, training, responsibility, utilization, supervision, and insurance of volunteers.

(c) Take such actions as are necessary to insure that volunteers understand their duties and responsibilities.

3119.1. The provisions of this article shall not apply to the Department of Aging's use of volunteers, pursuant to the provisions of Titles III (42 U.S.C. 3021 and following), V (42 U.S.C. 3041 and following), and VII (42 U.S.C. 3045 and following) of the Older Americans Act.

3119.2. (a) There is hereby created, within the Office for Citizen Initiative and Voluntary Action, an advisory body which shall be known as the Public Employee Review Committee.

(b) Membership on the committee shall consist of nine members appointed by the Governor. The Governor shall select the members of the committee from lists or nominations prepared by recognized public employee labor unions, organizations, and associations. Membership on the committee shall be proportional to the numbers of persons in the state service represented by each union, association, or organization.

(c) Membership on the committee is completely voluntary and no member shall be reimbursed for expenses incurred in fulfilling the obligations of the committee.

(d) The committee shall analyze actions of the office, critique the effectiveness of the office, make relevant recommendations to the office with respect to volunteerism, and provide its determinations thereon to the office for incorporation into the annual report required to be submitted by the office to the Legislature.

CHAPTER 1196

An act to amend Section 74191 of the Government Code, relating to judges.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 74191 of the Government Code is amended to read:

74191. There shall be 15 judges.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any costs incurred by it under this act.

CHAPTER 1197

An act to amend Sections 51, 602, 605, and 1513 of the Elections Code, relating to elections.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 51 of the Elections Code is amended to read:

51. The county clerk in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature such information and statistics as may be necessary for use in connection with the reapportionment of legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, and lists showing the election returns for each precinct in the county at the last four statewide elections held prior to reapportionment.

Each precinct shall be identified according to the census tract or enumeration district in which it is located. In the case of any precinct that is divided among two or more census tracts or enumeration districts, the county clerk shall include an estimate of the proportion of the precinct's registered voters in each census tract or enumeration district. If the United States Bureau of the Census divides or alters any census tract or enumeration district between the time of an election and the census upon which the reapportionment is based, the county clerk shall provide whatever corrections or additional information may be necessary to reflect those changes.

SEC. 1.5. Section 602 of the Elections Code is amended to read:

602. The number of copies of the precinct index printed shall be as many as in the judgment of the county clerk may be necessary for the business of the office. In counties where the precinct index is printed by means of a punched card or other high-speed

data-processing equipment, the number of copies of precinct indexes so prepared shall be the number required to be furnished by law and as many more as in the judgment of the county clerk may be necessary for the business of the office.

SEC. 2. Section 605 of the Elections Code is amended to read:

605. Upon written demand of the chairman or vice chairman of a party state central committee or of the chairman of a party county central committee, the county clerk shall furnish to each committee, without charge therefor, no more than two copies of the printed indexes of registration for the primary and general elections or for any special election at which a partisan office is to be filled. The copies of the printed indexes of registration shall be furnished to the committee demanding the same not less than 25 days prior to the day of the primary, general, or special election for which they are provided. Upon written demand, the county clerk shall also furnish to the committee not less than seven days prior to the above-specified elections, two copies of the printed indexes of registration of voters who registered after the 54th day before the election, which shall be compiled and prepared by Assembly districts.

SEC. 3. Section 1513 of the Elections Code is amended to read:

1513. No precinct shall be established so that its boundary crosses the boundary of any supervisorial district, congressional district, senatorial district, Assembly district, judicial district, incorporated city, or ward. To the extent possible, without subjecting the voter to significant inconvenience, precinct boundaries should not cross census tract or enumeration district lines.

If at any election any precinct contains an insufficient number of qualified persons to make up a precinct board, the precinct may be consolidated with an adjoining precinct.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because there are savings as well as costs in this act that, in the aggregate, do not result in significant cost changes.

CHAPTER 1198

An act to amend Section 27498 of the Government Code, relating to coroners.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 27498 of the Government Code is amended to read:

27498. (a) The coroner may issue subpoenas for witnesses, returnable forthwith or at such time and place as the coroner appoints, which may be served by any competent person. The coroner may also require any such witness to bring with him or her any books, records, documents, or other things under the control of the witness which, in the opinion of the coroner, are necessary to the conduct of the inquest and as a further aid in determining the circumstances, manner, and cause of death of the decedent. To enforce the provisions of this section, the coroner may issue subpoenas duces tecum in accordance with Section 1985 of the Code of Civil Procedure. In case of failure of a witness to attend, and in the case of a subpoena duces tecum, for the failure to produce the items set forth therein, the coroner, or the coroner's authorized deputy, issuing the subpoena upon proof of service thereof, and the failure of the witness, may certify the facts to the superior court in the county where the proceedings are held. The court shall thereupon issue an order directing the person to appear before the court and show cause why he or she should not be ordered to comply. The order and a copy of the certified statement shall be served on the person. Thereafter the court shall have jursidiction of the matter. The same proceedings shall be had, the same penalties may be imposed and the person charged may purge himself or herself of the contempt in the same way as in the case of a person who has committed a contempt in the trial of a civil action before a superior court. The items set forth on the subpoena duces tecum shall not be made public unless an inquest is held.

(b) Any books, records, documents, or other things under the control of a law enforcement agency, subpoenaed pursuant to subdivision (a), shall not themselves be made a part of the record in any coroner's inquest without the written consent of the law enforcement agency, when such inquest pertains to a death caused by a police officer.

CHAPTER 1199

An act to amend Section 2144 of the Business and Professions Code, relating to the practice of medicine, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 2144 of the Business and Professions Code is amended to read:

2144. Nothing in this chapter prohibits service in the case of emergency, or the domestic administration of family remedies, nor does this chapter apply to any commissioned medical officer in the United States Army, Navy, Marine or Air Force hospital, or public health service, in the discharge of his official duties, nor to any licensed dentist when engaged exclusively in the practice of dentistry.

No physician and surgeon licensed under this chapter, who in good faith and without compensation renders voluntary emergency medical assistance to a participant in a community college or high school athletic event or contest, at the site of the event or contest, or during transportation to a health care facility, for an injury suffered in the course of the event or contest, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering such voluntary medical assistance. The immunity granted by this paragraph shall not apply in the event of an act or omission constituting gross negligence.

No person licensed under this chapter, who in good faith renders emergency care at the scene of the emergency, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

"The scene of the emergency" as used in this section shall include, but not be limited to, the emergency rooms of hospitals in the event of a medical disaster. "Medical disaster" means a duly proclaimed state of emergency or local emergency declared pursuant to the California Emergency Services Act. Acts or omissions ocurring in emergency rooms of hospitals in the event of a medical disaster and excepted from liability pursuant to this section shall include those acts or omissions which occur after the declaration of a medical disaster and those which occurred prior to such declaration but after the commencement of such medical disaster. The immunity granted in this paragraph shall not apply in the event of a willful act or omission.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The increasing incidence of malpractice actions against licensed physicians acting as team physicians may jeopardize the safety of participants in sporting events if this act does not take effect at the earliest possible time.

CHAPTER 1200

An act relating to beach erosion control, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The sum of seventy-five thousand dollars ($75,000), or so much thereof as may be necessary, is hereby appropriated from the General Fund to the Department of Boating and Waterways for disbursement pursuant to a contract with the City of San Diego or the San Diego Unified Port District, or both, for the purpose of funding up to 50 percent of the initial cost of restoring the beach at La Playa in San Diego Bay; provided, however, that none of the funds appropriated by this act may be encumbered until the San Diego Unified Port District agrees to assume responsibility thereafter for the operation and maintenance of such beach, including future sand replenishment.

CHAPTER 1201

An act to amend Section 27491.3 of the Government Code, relating to death investigations.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 27491.3 of the Government Code is amended to read:

27491.3. (a) In any death into which the coroner is to inquire, the coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased. However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies. Any costs arising from the premises being locked or sealed while occupied by property of the deceased may be a proper and legal charge against the estate of the deceased.

(b) Any such property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with

knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged.

(c) Except as otherwise provided in subdivision (d), it shall be unlawful for any person to search for or remove any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner. At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner shall not further willfully disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request.

(d) A peace officer may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction.

"Peace officer", as used in this subdivision, means only those persons designated in Sections 830.1 and 830.2 of the Penal Code.

CHAPTER 1202

An act to amend Sections 6721, 6722, 6723, 6724, 6726, and 6727 of, to add Section 6728 to, and to repeal, add and repeal and add Article 7 (commencing with Section 53481) to Chapter 5 of Division 18 of the Food and Agricultural Code, relating to nursery stock, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 6721 of the Food and Agricultural Code is amended to read:

6721. It is unlawful, for any person, except a person who is expressly exempt pursuant to Section 6742 or 6743, to sell any nursery stock unless such person holds a valid license which is issued pursuant to this chapter.

SEC. 2. Section 6722 of the Food and Agricultural Code is amended to read:

6722. Except as provided in Section 6761, the director, upon receipt of the total license fee which is established pursuant to Section 6723, shall issue a license to sell nursery stock for the

appropriate period as established pursuant to Section 6724 to any person that sells or seeks to sell plants, as defined in Section 5007, for planting, propagation, or ornamentation. Plants for ornamentation shall include cut flowers and cut greens. The applicant shall further satisfy the director of his character and good faith in seeking to carry on the business of selling nursery stock.

SEC. 3. Section 6723 of the Food and Agricultural Code is amended to read:

6723. The minimum license fee shall be established by the director at an amount not to exceed sixty-five dollars ($65).

The director may fix the minimum license fee at an amount which is less than sixty-five dollars ($65) and may adjust the license fee if, after investigation and due notice, he finds that the cost of administering the provisions of this division and Chapter 5 (commencing with Section 53301) of Division 18, which relate to nursery stock can be defrayed from revenues which are derived from such license fee in combination with such sums as are provided by Sections 435 and 5822.

To the amount of the minimum license fee which is established by the director, there shall be added, as an additional license fee, (1) an equal sum for each branch salesyard, store, or sales location which is owned and operated by the applicant in the state and (2) an acreage fee in an amount to be established by the director for land used in the production, storage, or sale of nursery stock in excess of one acre, which he determines is necessary to carry out the provisions of this part and any portion of this code which relates to nursery stock. Such total acreage fee shall not be less than twenty-five dollars ($25) nor more than three hundred dollars ($300) for each licensee. The acreage fee shall be calculated using as a basis each location where nursery stock is produced, stored, or sold.

As to all the fees, the director may require payment of prorated amounts when necessary in the issuance of new licenses for branch salesyards, stores, or sales locations to persons already licensed pursuant to the licensing periods established in Section 6724.

SEC. 4. Section 6724 of the Food and Agricultural Code is amended to read:

6724. There shall be four licensing periods as follows: January through December, April through March, July through June, and October through September. The fees for the renewal of the license for the foregoing periods shall be paid by the 1st day of the first month of the licensee's license period. If the renewal license fee is not paid prior to the 11th day of the first month of the licensee's license period, for the 12-month period ensuing, the license to sell nursery stock is forfeited.

SEC. 5. Section 6726 of the Food and Agricultural Code is amended to read:

6726. Except as otherwise provided in Section 6727, the application for renewal of a license shall be accompanied by the following sums:

(a) If no part of the minimum license fee has been paid, a sum which is equal to the minimum license fee and a restoration fee in an amount that is equal to the minimum license fee.

(b) If a part of the minimum license fee has been paid, an amount which is a sum equal to any portion of the minimum license fee which is unpaid on the 11th day of the first month of the licensee's license period and a restoration fee in an amount which is equal to the unpaid portion of the minimum license fee.

SEC. 6. Section 6727 of the Food and Agricultural Code is amended to read:

6727. No restoration fee is required of any person whose application for renewal of a license is accompanied by his signed statement that prior to the date of his application and payment of the minimum license fee he has not sold any nursery stock during any part of the license period for which he applies for renewal of the license. The director also may accept, at his discretion, the licensee's affidavit that the minimum license fee was not paid within the time limits specified in Section 6724 for reasons beyond the licensee's control.

SEC. 7. Section 6728 is added to the Food and Agricultural Code, to read:

6728. The director shall not refund more than one-half of the minimum license fee to any person who applies for a license to sell nursery stock and who later decides not to engage in the sale of nursery stock. No portion of the minimum license fee shall be refunded to any person who is denied a license pursuant to Section 6761.

SEC. 8. Article 7 (commencing with Section 53481) of Chapter 5 of Division 18 of the Food and Agricultural Code is repealed.

SEC. 9. Article 7 (commencing with Section 53481) is added to Chapter 5 of Division 18 of the Food and Agricultural Code, to read:

Article 7. Labeling

53481. The director shall adopt regulations regarding the labeling of nursery stock in order to carry out the provisions of this chapter.

This article shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 10. Article 7 (commencing with Section 53481) is added to Chapter 5 of Division 18 of the Food and Agricultural Code, to read:

Article 7. Labeling

53481. When nursery stock is sold, it shall be labeled plainly and legibly as to the correct name, and also as to the grade size if so required by regulations.

53482. Nursery stock on display for sale may be labeled by a sign on any block of stock of the same kind and species.

53483. Ornamentals, except roses and annual or herbaceous perennial ornamental plants, shall be labeled with the botanical name.

Roses, annual or herbaceous perennial ornamental plants, and other kinds of nursery stock shall be labeled with the recognized common name and variety, except that the variety name is not required for dormant bulbs, tubers, roots, corms, rhizomes, and pips.

53484. This article shall become operative January 1, 1982.

CHAPTER 1203

An act to amend Sections 1634 and 1635 of, to add Sections 771.1, 831.1, 881.1, 882.5, 988, and 1215.13½ to, and to add Part 7 (commencing with Section 12740) to Division 2 of, the Insurance Code, relating to home protection insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Legislature finds that:

(a) The federal government through the Department of Housing and Urban Development has for five or more years consulted with the housing industry, exploring, encouraging and promoting a home protection program for the buyers of existing homes, and the Congress, in Section 9 of the Housing Authorization Act of 1976, directed the Secretary of Housing and Urban Development "to conduct a full and complete investigation ... with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes ... ." The Congress particularly directed that the Secretary "investigate the need for, cost, and feasible structure of a national home inspection and warranty program ... to be operated by the federal government out of fees assessed on the home buyer and amortized over a period of two years."

(b) In response to needs in the marketplace and to the federal interest and pressure, an industry providing a service to maintain, repair or replace certain components of residential structures or certain appliances or electrical and mechanical or other systems of such structures, has operated in California for five or more years.

(c) More than 100,000 contracts to provide such services are now outstanding.

(d) The vast majority of such contracts have not been executed as insurance contracts and the overwhelming majority of companies offering such contracts have been doing business in a capacity other

than, and have been qualified other than, as admitted insurers.

(e) No specific form of state regulation of this evolving industry has existed in California up to this time.

(f) On May 3, 1978, the Attorney General issued an opinion that companies offering such contracts were transacting insurance, and the issuance of that opinion has produced uncertainty for the beneficiaries of such existing contracts and for those engaged in or related to this industry.

(g) It is desirable in the interests of the people of this state to provide a specific regulatory scheme within Department of Insurance for the qualification, control and functioning of this industry and for an orderly transition from present practices to such new regulatory scheme.

(h) It is desirable to protect existing home protection contract holders and those who may enter into such contracts during this transition period, to maintain the solvency of the companies offering such contracts wherever possible within the context of a new regulatory scheme, and to protect the public by preventing fraud and requiring fair dealing.

(i) The vast majority of contracts providing home protection in California have been concluded without payment of compensation to any person for the solicitation, referral or acquisition of such contracts.

(j) Home protection contracts have in most instances been concluded in relationship to the transfer of residential properties, or for limited terms and are usually not renewed, and the services incident to the production and servicing of such contracts differ from that in most traditional insurance contracts.

SEC. 2. Section 771.1 is added to the Insurance Code, to read:

771.1. Nothing in this article shall prevent any person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code from recommending, soliciting, negotiating or effecting home protection contracts issued by a company qualified under Part 7 (commencing with Section 12740) of Division 2, in connection with his or her licensed function authorized by Sections 10131 or 10131.6 of the Business and Professions Code, notwithstanding that such person is not a fire and casualty licensee as defined in Section 1625.

SEC. 3. Section 831.1 is added to the Insurance Code, to read:

831.1. Every security of a home protection company issued or authorized to be issued prior to December 31, 1978, shall be valid even though it has been issued without a permit of the commissioner authorizing the same if, at the time of the issue or authorization, the security was qualified or exempt from qualification under the Corporate Securities Law of 1968 (Title 4, Division 1 of the Corporations Code).

Any sale, transfer, hypothecation, or other distribution of a security whose issuance is validated by this section, whether such transaction takes place before or after the effective date of this section is not

prohibited by the provisions of this article.

SEC. 4. Section 881.1 is added to the Insurance Code, to read:

881.1. Notwithstanding the provisions of Section 881 or any other provision of law, neither the commissioner or the Secretary of State shall reject a name proposed by an entity seeking admission as a home protection company if such name was used by such entity for conduct of a home protection or home warranty business in this state for at least one year prior to May 3, 1978. Every such name, upon the commissioner's determination of such use, shall be approved upon submission of application therefor.

SEC. 5. Section 882.5 is added to the Insurance Code, to read:

882.5. (a) A home protection company proposing to issue a contract bearing the name of itself as well as another name which is the name of a person, persons or organization of persons licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, or a franchised name therefor, must first file an application with the commissioner for approval of such other name. The commissioner may reject any name so submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect; provided, however, that such a name shall not be rejected, except pursuant to subdivision (b) of this section, if such name was used by the same entity for a similar offering in this state prior to May 3, 1978. In case of any rejection of a name pursuant to this subdivision, the application may be amended to submit another or other names.

(b) No such name shall be approved unless all power to transact home protection business (except as authorized in Section 771.1) and other powers specified by the commissioner by regulation, are specifically retained by the home protection company and such home protection contracts prominently disclose that fact.

The commissioner, pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, may adopt reasonable regulations to implement this section.

SEC. 6. Section 988 is added to the Insurance Code, to read:

988. A home protection company shall be deemed insolvent whenever provision for its liabilities and for reinsurance of all outstanding risks would reduce net worth below 50 percent of the amount required by Section 12750. Reinsurance of all outstanding risks shall have the meaning set forth in Section 985.

SEC. 7. Section 1215.13½ is added to the Insurance Code, to read:

1215.13½. (a) The provisions of this article shall not apply to any party or entity participating in any investment by a home protection company in its subsidiary or affiliate or any debt or security instruments thereof, an effectuation or attempt to effectuate an acquisition of control or a liquidation of, or merger with, a home protection company, or any material transaction by a home protection company with its affiliate if such investment, effectuation, attempt or transaction occurred prior to December 31, 1978.

(b) The registration required by Section 1215.4 shall first be

applicable to home protection companies who are members of an insurance holding company system on January 1, 1980.

SEC. 8. Section 1634 of the Insurance Code is amended to read:

1634. No license is required under the provisions of this chapter for a person to act in the following capacities:

(a) As an employee, not paid on a commission basis, of a title insurer;

(b) As a salaried solicitor or agent of a mortgage insurer or mortgage guaranty insurer provided no part of the compensation of such person is on a commission basis;

(c) As the attorney in fact of a reciprocal or interinsurance exchange;

(d) As a life insurance analyst;

(e) As a surplus line broker or special lines surplus line broker;

(f) As a bail agent, bail solicitor or bail permittee; or

(g) As an employee, not paid on a commission basis, of a home protection company.

SEC. 9. Section 1635 of the Insurance Code is amended to read:

1635. No license is required under the provisions of this chapter for a person to act in the following capacities or to engage in the following activities, providing no commission is paid or allowed, directly or indirectly, for acting in such capacities or engaging in such activities:

(a) The business of examining, certifying or abstracting titles to real property;

(b) The solicitation for membership in a fraternal benefit society and other activities to the extent and as described in Sections 11013 and 11102 of this code;

(c) As a salaried representative of a reciprocal or interinsurance exchange or of its attorney in fact;

(d) Employment which does not include the solicitation, negotiation or effecting of contracts of insurance and the signing of policies or other evidences of insurance;

(e) As an officer of an insurer or a salaried traveling employee of the type commonly known as a special agent or as an agency supervisor, while performing duties and exercising functions such as are commonly performed by a special agent or agency supervisor, if the person engaging in such activity does not:

(1) Effect insurance; or

(2) Solicit or negotiate insurance except as a part of and in connection with the business of an insurance agent, insurance broker or life agent licensed under this chapter;

(f) As an officer or salaried representative of a life insurer if his activities are limited to direct technical advice and assistance to a properly licensed person and his activities do not include effecting insurance or soliciting or negotiating insurance except as a part of and in connection with the business of an insurance agent, insurance broker, or life agent licensed under this chapter;

(g) Employment by an insurer at its home or branch office which

does not include the solicitation or negotiation of insurance, and which may as part thereof include the signing of policies or other evidences of insurance;

(h) The completion or delivery of a declaration or certificate of coverage under a running inland marine insurance contract evidencing coverage thereunder and including only such negotiations as are necessary to such completion or delivery if the person performing such acts or his employer has an insurable interest in the risk covered by the certificate or declaration; or

(i) As an employee of a licensed insurance agent or broker, whose employment is:

(1) That of a regularly salaried administrative or clerical employee who devotes substantially all of his services to activities other than the solicitation of insurance from the insuring public; or

(2) That of a salesman who devotes substantially all of his activities to selling merchandise and whose solicitation of insurance is limited only to the quoting of a premium for insurance to be included in the purchase price covering the interest retained in such merchandise by the seller.

(j) The solicitation, negotiation or effectuation of home protection contracts issued by a company qualified under Part 7 (commencing with Section 12740) of Division 2, by a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code in connection with his or her licensed function authorized by Section 10131 or 10131.6 of the Business and Professions Code.

SEC. 10. Part 7 (commencing with Section 12740) is added to Division 2 of the Insurance Code, to read:

PART 7. HOME PROTECTION

CHAPTER 1. DEFINITIONS AND LICENSING

12740. The definitions used in this section govern the construction and terms used in this part but shall not affect any other provisions of this code:

(a) "Home protection contract" means any contract or agreement whereby, for a predetermined fee, a person undertakes for a specified period of time, to repair or replace all or any part of any component, system or appliance of a home necessitated by wear and tear, deterioration or inherent defect, or by the failure of an inspection to detect the likelihood of any such loss.

Such contract shall provide for a system of service for effectuating such repair or replacement and shall not include protection against consequential damage from the failure of any component, system or appliance.

(b) "Home protection company" means any person licensed pursuant to this part which issues home protection contracts.

(c) "Protection contract fee" means the consideration received,

or to be received, by a home protection company for the issuance of any home protection contract.

(d) "Home" or "residential property" as used in this part means any single or multiple unit or units, including mobilehomes, (as defined in Health and Safety Code Section 18211) used primarily for residential purposes.

12741. This part shall not apply to:

(a) Performance guarantees given by either the builder of a home or the manufacturer or seller of an appliance or other system or component if no identifiable charge is made for such guarantee.

(b) Any contract purporting to offer a home protection plan or warranty executed on or before December 31, 1978, by a company regularly transacting the business of offering such contracts on or before May 3, 1978, and which contract by its terms expires on or before March 31, 1980.

(c) Any service contract, guarantee or warranty intending to guarantee or warrant the repairs or service of a home appliance, system or component, provided such service contract, guarantee or warranty is issued by a person who has sold, serviced, repaired or provided replacement of such appliance, system or component at the time of, or prior to issuance of such contract, guarantee or warranty; and, provided, further, that the person issuing the service contract, guarantee, or warranty, does not engage in the business of a home protection company.

(d) The provider of any pest control service agreement pursuant to Section 8516 of the Business and Professions Code.

12742. Home protection contracts and home protection companies, and all matters incident to or concerned with such contracts and companies, shall be exclusively subject to and regulated by the provisions of this part and, except as provided in Section 12743, shall not be governed by any other provision of this code.

12743. The following provisions of this code shall be applicable to home protection contracts and home protection companies:

(a) Sections 1 to 46, inclusive, relating to General Provisions.

(b) Chapter 3 (commencing with Section 330), of Part 1, Division 1, relating to Negotiations Before Execution.

(c) Chapter 12 (commencing with Section 679.70) of Part 1, Division 1, relating to Prohibition of Discriminatory Practices.

(d) These provisions of Chapter 1, Part 2, Division 1:

(1) Article 1 (commencing with Section 680) relating to Charter Requirements.

(2) Article 1.5 (commencing with Section 685) relating to Retaliation.

(3) Article 1.7 (commencing with Section 688) relating to Continuity of Management.

(4) Article 2 (commencing with Section 690) relating to Capital Structure.

(5) Article 3 (commencing with Section 699), except Sections

700.01, 700.02, 700.03, 700.05, 706 and 708, relating to Certificate of Authority.

(6) Article 4 (commencing with Section 730) relating to Examination by Commissioner.

(6.5) Article 5 (commencing with Section 750) relating to Rebates, Profits and Commissions.

(7) Article 5.5 (commencing with Section 770) relating to Insurance in Connection with Sales and Loans.

(8) Article 6 (commencing with Section 780) relating to Misrepresentation of Policies.

(9) Article 6.5 (commencing with Section 790) relating to Unfair Practices.

(10) Article 8 (commencing with Section 820) relating to Issue of Securities.

(11) Article 9 (commencing with Section 880) relating to Registration of Insurer's Names.

(12) Article 10 (commencing with Section 900) relating to Financial Statements of Insurers.

(13) Article 11 (commencing with Section 939) relating to Deposit of Securities.

(14) Article 12 (commencing with Section 970) relating to Bond for Payment of Taxes.

(15) Article 13 (commencing with Section 980) relating to Insolvency.

(16) Article 14 (commencing with Section 1010) relating to Proceedings of Cases of Insolvency and Delinquency.

(17) Article 14.5 (commencing with Section 1065.1) relating to Stop Order Power of the Commissioner.

(18) Article 15 (commencing with Section 1070) relating to Withdrawal of Insurers.

(19) Article 16 (commencing with Section 1080) relating to Approval of Reinsurance Plans.

(20) Article 17 (commencing with Section 1100) relating to Loans and Investments.

(e) These provisions of Chapter 2, Part 2, Division 1:

(1) Article 1 (commencing with Section 1140) relating to General Provisions on Incorporated Insurers.

(2) Article 2 (commencing with Section 1150) relating to Restrictions on Activities.

(3) Article 3 (commencing with Section 1170) relating to General Investments.

(4) Article 4 (commencing with Section 1190) relating to Property Authorized for Excess Funds Investments.

(5) Article 4.5 (commencing with Section 1210) relating to the Leeway Law.

(6) Article 4.7 (commencing with Section 1215) relating to the Insurance Holding Company System Regulatory Act.

(7) Article 7 (commencing with Section 1250) relating to Valuation of Investments.

(8) Article 8 (commencing with Section 1260) relating to Reinsurance Transactions.

(f) Chapter 4 (commencing with Section 1560) of Part 2 of Division 1, relating to Foreign Insurers.

(g) Article 3 (commencing with Section 1631) of Chapter 5, of Part 2 of Division 1, relating to Licensing of Production Agencies.

(h) Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, relating to Rates and Rating and Other Organizations.

(i) Division 3 (commencing with Section 12900) relating to the Insurance Commissioner.

(j) In any references in the provisions made applicable to this part by subdivisions (a) to (i) inclusive of this section:

(1) "Insurer" shall mean home protection company.

(2) "Insured" shall mean a home protection contract holder.

(3) "Premium" shall mean protection contract fee.

(4) "Policy" or "insurance" shall mean home protection contract.

(k) When any provision of this code, other than this part, is applied to home protection companies, such provision shall be construed in accordance with the nature of home protection companies and the home protection business. In the event of any conflict between such other provision and this part, this part shall prevail.

12744. (a) No person shall issue or offer to issue home protection contracts in this state unless such person holds a home protection company license issued by the department, except as provided in subdivision (b) of this section.

(b) An insurer admitted for the class of insurance defined in Section 120 is authorized, in addition to the underwriting powers granted by such class, to issue home protection contracts, but the provisions of this part shall not be otherwise applicable to such insurers or their contracts.

(c) No license shall be granted to a foreign applicant that has not fulfilled the requirements of Sections 716 and 717. For purposes of this part, the term "class of insurance" as used in said sections shall mean the business of a home protection company. This section shall not prohibit the admission of a foreign home protection company which has actively transacted home protection business in its state of domicile for three years or more.

(d) The department shall by regulation prescribe forms for applications for home protection company licenses consistent with the provisions of this part. Any reference to certificate of authority in Article 3 (commencing with Section 363) of Chapter 1 of Part 2 of Division 1, shall mean home protection company license.

CHAPTER 2. FISCAL REQUIREMENTS

12750. (a) A home protection company which has issued or renewed an aggregate number of 1,000 or less contracts in the preceding calendar year shall maintain a minimum net worth of

forty thousand dollars ($40,000) and for each additional 500 contracts, or fraction thereof, up to 10,000 contracts, an additional twenty thousand dollars ($20,000).

Net worth is defined as the excess of admitted assets over all liabilities and required reserves. At least twenty thousand dollars ($20,000) of net worth shall consist of paid-in capital.

(b) Until January 1, 1980, a home protection company which was transacting a home protection business in California on May 3, 1978, and whose net worth on May 3, 1978, did not meet the requirements of subdivision (a), shall maintain a minimum net worth of one-half of that prescribed in subdivision (a).

12751. Any home protection company which has issued and in force, prior to January 1, 1979, any contracts for home protection exempt from the provisions of this part pursuant to Section 12741, shall carry a portion of the fee received for such contracts in the reserve contemplated by Section 985, as though such fees were premiums subject to the provisions of that section, and such sums shall be deemed equivalent to premiums for purposes of that section but shall not be considered premiums for the purposes of Section 12202 of the Revenue and Taxation Code.

12752. Each home protection company shall file statements exhibiting its conditions and affairs in accordance with Article 10 (commencing with Section 900) of Chapter 1, Part 2, Division 1 except that the required contents of such statements may be varied from the requirements of Sections 905 to 911, inclusive, as prescribed by the commissioner by regulation (adopted in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2, of the Government Code) to adapt such requirements to the home protection business.

CHAPTER 3. OTHER PROVISIONS

12760. No home protection company shall pay to any person any commission as an inducement or compensation for the issuance, purchase or acquisition of home protection contracts.

12761. The furnishing of a policy of home protection contract without charge to any person shall constitute a violation of this part. A home protection company which provides a residential inspection service as a prequalification for the issuance of home protection contracts may make such an inspection and offer a report on it in connection with a bona fide application for the issuance of such contract even though the issuance of a contract on the property which is the subject of the inspection does not occur.

No home protection contract providing coverage prior to the time that an interest in the home to which it attaches is sold, shall be issued or delivered unless it provides for consideration which may include the bona fide promise to pay the protection contract fee upon transfer of title, if such transfer occurs.

12762. A home protection contract shall specify, in clear and

conspicuous terms, the following information:

(a) Each of the appliances, systems and components covered by the contract.

(b) All exclusions and limitations respecting the extent of coverage.

(c) The period during which the contract will remain in effect, the protection contract fee and the renewal terms, if any.

(d) With respect to the performance of services by the home protection company:

(1) The services to be performed by the company and the terms and conditions of such performance;

(2) The service fee or fees, if any, to be charged for such services;

(3) All limitations respecting the performance of services, including any restrictions as to the time period when or geographical area within which services may be requested or will be performed;

(4) A statement that services will be performed upon telephonic request therefor to the company, without any requirement that claim forms or applications be filed prior to the rendition of service; and

(5) A representation that services will be initiated by or under the direction of the company within 48 hours after request is made for such services by any person entitled to make such request under the contract, or the agent of such person.

(e) The commissioner may adopt, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable regulations as may be necessary to make more specific the provisions of this section. Such regulations may also establish other contract form standards and requirements as the commissioner may deem necessary and appropriate in the public interest. Provided, however, that this section shall not give the commissioner the authority to specify those appliances, systems, or components which must be covered by a home protection contract except to the extent necessary to guarantee the equity of the exclusions from coverage offered or provided under a contract, or to the extent necessary to avoid illusory coverage due to the nature or extent of exclusions from the contract.

12763. No home protection contract shall be issued or delivered until a copy of the form thereof is filed with the commissioner. The commissioner may charge a fee for such filing, which fee shall be established by regulation adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

12764. (a) Any home protection contract shall be noncancellable during the initial term for which it was issued, except for:

(1) Nonpayment of protection contract fees;

(2) Fraud or misrepresentation of facts material to the issuance of such contract; or

(3) Contracts providing coverage prior to the time that an interest in the residential property to which it attaches is sold, upon

the contingency that such sale does not occur.

(b) Nothing in this section establishes a right to renewal of any contract.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

More than 100,000 California families who are the beneficiaries of existing home protection contracts and an entire industry engaged in the provision of home protection services have been subjected to uncertainty and threatened financial loss as a result of the May 3, 1978, opinion of the Attorney General which declared that persons offering home protection service contracts are transacting insurance, and it is necessary to establish a system for the regulation of such services, to provide for an orderly transition of present practices to that system and to protect existing contract holders. It is therefore necessary that this act take effect immediately.

CHAPTER 1204

An act to amend Section 44256 of the Education Code, relating to certificated employees.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 44256 of the Education Code is amended to read:

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools. A holder of a single subject instruction credential who has completed 20 semester hours of coursework or 10 semester hours of upper division coursework in any subject commonly taught in grades 7 to 12, other than the subject for which he or she is already credentialed, shall be eligible to have this subject appear on such credential as authorization to teach a second subject.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including but not limited to, reading specialist, mathematics specialist, specialist in

special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

CHAPTER 1205

An act to add Section 2141.5 to the Business and Professions Code, relating to medicine.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 2141.5 is added to the Business and Professions Code, to read:

2141.5. Section 2141 shall not be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. For purposes of this section the term "providing nutritional advice or giving advice concerning proper nutrition" means the giving of information as to the use and role of food and food ingredients, including dietary supplements. This section confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition or to state that any product might cure any disease, disorder, or condition in violation of any provision of law.

(c) Any person in commercial practice providing nutritional advice or giving advice concerning proper nutrition shall post in an easily visible and prominent place the following statement in his or her place of business:

NOTICE

State law allows any person to provide nutritional advice or give advice concerning proper nutrition--which is the giving of advice as to the role of food and food ingredients, including dietary supplements. This state law does NOT confer authority to practice medicine or to undertake the diagnosis, prevention, treatment, or cure of any disease, pain, deformity, injury or mental or physical condition and specifically does not authorize any person other than one who is a licensed health professional to state that any product might cure any disease, disorder, or condition.

(d) The notice required by subdivision (c) shall not be smaller than 8½ inches by 11 inches and shall be legibly printed with lettering no smaller than ½ inch in length, except that the lettering

of the word "NOTICE" shall be not smaller than 1 inch in length.

CHAPTER 1206

An act relating to teachers' retirement.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Teachers' Retirement Board shall conduct an actuarial study of the level of state contributions, contributions of school districts and other employing agencies and contributions of their member employees in effect on June 30, 1972.

CHAPTER 1207

An act to add Section 11 to the Education Code, to amend Sections 29100, 50286, and 51511 of, and to add Sections 16101.5 and 43004.5 to, the Government Code, to amend Section 33328 of, and to add Section 33670.5 to, the Health and Safety Code, to amend Sections 205.5, 218, 273.5, 275, 276, 401, 435, 619, 619.2, 722, 1606, 1637, 2611.5, 2905, 4836.5, 11251, 11401, 20542, and 20543 of, and to add Sections 135, 205.1, and 2260.5 to, the Revenue and Taxation Code, and to add Section 22 to the Welfare and Institutions Code, relating to property taxation.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 11 is added to the Education Code, to read:

11. (a) For purposes of this code, "assessed value" means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter; and, tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars ($100) of assessed value to, and including, the 1980–81 fiscal year and as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 2. Section 16101.5 is added to the Government Code, to read:

16101.5. (a) For purposes of this part, "assessed value" means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter; and, tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars ($100) of assessed value to and including the 1980–81 fiscal year and as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter;

(b) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the methods of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 3. Section 29100 of the Government Code is amended to read:

29100. On or before September 1st of each year, the board shall fix the rates of taxes on the secured roll, by determining the percentage of full value on the secured roll required to raise the revenue authorized by this section. The rate shall be such as will produce, after due allowance for delinquency, and as applicable, after due allowance for disputed tax revenues anticipated to be impounded pursuant to Section 26906.1 of this code, the amount determined as necessary to be raised by taxation on the secured roll.

The allowance for delinquency shall be as fixed by law or by the board. The allowance for disputed tax revenues shall be as fixed by the board. The final determination for either or both allowances may

be made at the same time as tax rates are fixed.

The amount to be raised by taxation on the secured roll is found by deducting from the total appropriations and reserve requirements of a fund, the respective total of:

(a) The amount of estimated revenue from other sources, including taxes anticipated on the unsecured roll, and

(b) The fund balance-available.

The amount of revenue from other sources and of the fund balance-available may be re-estimated at the time of fixing the tax rates and may be increased or decreased by the board and the amounts so determined by the board are conclusive and final.

SEC. 4. Section 43004.5 is added to the Government Code, to read:

43004.5. (a) For purposes of this part, assessed value means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter; and, tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars ($100) of assessed value to and including the 1980–81 fiscal year and as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purpose of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 5. Section 50286 of the Government Code is amended to read:

50286. If a contract is canceled under Section 50284, the owner shall pay a cancellation fee of 12½ percent of the full value of the property at the time of cancellation, as determined by the county assessor without regard to any restriction on such property imposed pursuant to this article. The cancellation fee shall be paid to the Controller, at such time and in such manner as the Controller shall prescribe, and shall be deposited in the State General Fund.

SEC. 6. Section 51511 of the Government Code is amended to read:

51511. Annually, before September 1st, the city legislative body

shall fix the rate of taxes, or rates of taxes, if different portions or districts require different rates, by determining the percentage of full value on the assessment roll required to raise the revenue authorized by this article, using as a basis the value of the property as assessed and equalized. The rates shall be sufficient to raise the amount fixed by ordinance or resolution and the expense of collection. The city legislative body shall immediately transmit to the county auditor a statement of the rates fixed.

SEC. 7. Section 33328 of the Health and Safety Code is amended to read:

33328. When it transmits the map of the project area to the county officials, taxing agencies, and the State Board of Equalization pursuant to Section 33327, the redevelopment agency shall also advise such officials and agencies of the last equalized assessment roll it proposes to use for the allocation of taxes that will comply with Sections 33670 and 33670.5. That roll shall be known and referred to as the base year assessment roll. The county officials charged with the responsibility of allocating taxes under Sections 33670 and 33670.5 shall prepare and deliver to the redevelopment agency and each of the taxing agencies, a report which shall include the following:

(a) The total assessed valuation of all taxable property within the project area as shown on the base year assessment roll.

(b) The identifications of each taxing agency levying taxes in the project area.

(c) The amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar such subventions.

(d) For each taxing agency, its total ad valorem tax revenues from all property within its boundaries, whether inside or outside the project area.

(e) The estimated first year taxes available to the redevelopment agency, if any, based upon information submitted by the redevelopment agency, broken down by taxing agencies.

(f) The assessed valuation of the project area for the preceding five years, except for state assessed property on the board roll. Provided that in preparing this information, the requiremments of Section 33670.5 are observed. The assessed value shall be reported by block if the property is divided by blocks, or by such other geographical area as may be agreed upon by the agency and county officials.

(g) The total assessed valuation of all taxable property outside of the project area which is within 300 feet from the boundaries of the project area as shown on the base year assessment roll. For the purposes of this section "property within 300 feet" means and includes all of any parcel of property and any taxable property situated thereon, up to the boundaries of such parcel, when any part of the parcel is within 300 feet of the boundaries of the project area. The report, when received by the redevelopment agency, shall be

included in the report required by Section 33352.

For public utilities, the reporting requirements of this section for the area that is within 300 feet of the boundaries of the project area may be met by providing the total assessed value of all land and improvements. The report, when received by the redevelopment agency, shall be included in the report required by Section 33352.

The report shall be prepared and delivered to the redevelopment agency and each of the taxing agencies within 90 days of the date of filing by the redevelopment agency with the State Board of Equalization or as otherwise agreed upon by the agency and the State Board of Equalization. If the proposed base year assessment roll has not yet been equalized at the time of the receipt of such advice, then the report shall be prepared and delivered within 90 days, or other period, otherwise agreed upon, by the agency and the State Board of Equalization, from the date set forth in Section 2050 of the Revenue and Taxation Code.

If the filing does not comply with the requirements of Section 33327, the State Board of Equalization or the official of the taxing agency entitled to receive such documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no such notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If such report is not received within the time prescribed by this section, the redevelopment agency may proceed with the adoption of the redevelopment plan. The county officials may transmit a partial report, and any final report or additional information, if received by the agency prior to the close of the public hearing on the redevelopment plan shall become part of the record of the public hearing.

The State Board of Equalization and officials of all taxing agencies shall provide the county officials preparing the report with all information necessary for its preparation. All data and information upon which said report is based shall be available to the agency to the extent permitted by law.

Prior to the publication of notice of the legislative body's public hearing on the plan, the agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670.

SEC. 8. Section 33670.5 is added to the Health and Safety Code, to read:

33670.5. Section 33670 fulfills the intent of Section 16 of Article XVI of the Constitution. To further carry out the intent of Section 16 of Article XVI of the Constitution, whenever that provision requires the allocation of money between agencies such allocation shall be consistent with the intent of the people when they approved Section 16 of Article XVI of the Constitution. Whenever money is allocated between agencies by means of a comparison of assessed values for

different years, that comparison shall be based on the same assessment ratio. When there are different assessment ratios for the years compared, the assessed value shall be changed so that it is based on the same assessment ratio for the years so compared.

SEC. 9. Section 135 is added to the Revenue and Taxation Code, to read:

135. (a) "Assessed value" shall mean 25 percent of full value to and including the 1980–81 fiscal year, and shall mean 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter.

(b) "Tax rate" shall mean a rate based on a 25 percent assessment ratio and expressed as dollars, or fractions thereof, for each one hundred dollars ($100) of assessed valuation to and including the 1980–81 fiscal year, and shall mean a rate expressed as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter.

(c) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis and the same amount of tax revenues would be produced or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(d) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 9.5. Section 205.1 is added to the Revenue and Taxation Code, to read:

205.1. Section 205 of this code fulfills the intent of subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution. To further carry out the intent of subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution, any change in assessment ratio shall not be reason to decrease the amount of the exemption. Whenever assessed value is used as the test of the exemption, the exemption shall be increased accordingly when the assessment ratio is increased to 100 percent.

SEC. 10. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of two or more limbs, or is totally disabled.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means

having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 10.1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as

determined by the Veterans Administration.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 10.2. Section 205.5 of the Revenue and Taxation Code is

amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of two or more limbs, or is totally disabled. The exemption shall be sixty thousand dollars ($60,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried

surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 10.3. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into

military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means

that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 11. Section 218 of the Revenue and Taxation Code is amended to read:

218. The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the Constitution. Such exemption shall be in the amount of seven thousand dollars ($7,000) of the full value of the dwelling.

The exemption does not extend to property which is rented, vacant, under construction on the lien date, or which is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption. "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling. As used in this section, "dwelling" shall include:

(a) A single-family dwelling occupied by an owner thereof as his principal place of residence on the lien date.

(b) A multiple-dwelling unit occupied by an owner thereof on the lien date as his principal place of residence.

(c) A condominium occupied by an owner thereof as his principal place of residence on the lien date.

(d) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in paragraphs (1) and (2) of subdivision (a) of Section 17265, as his principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the

exemption.

"Dwelling" means a building, structure or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section a two-dwelling unit shall be considered as two separate single-family dwellings.

The exemption provided for in subdivision (k) of Section 3 of Article XIII of the Constitution shall first be applied to the building, structure or other shelter and the excess, if any, shall be applied to any land on which it may be located.

In view of the pending litigation concerning the eligibility for the homeowners' property tax exemption of persons receiving public assistance, it is not intended by the amendment of this section at the 1975–76 session of the Legislature that any inference be drawn from it in such litigation.

SEC. 12. Section 273.5 of the Revenue and Taxation Code is amended to read:

273.5. (a) If a claimant for the veterans' exemption for the 1976–77 fiscal year or any year thereafter fails to file the required affidavit with the assessor by 5 p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claim on or before the following December 1, an exemption of the lesser of three thousand two hundred dollars ($3,200) or 80 percent of the full value of the property shall be granted by the assessor.

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and a 6-percent penalty will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 13. Section 275 of the Revenue and Taxation Code is amended to read:

275. (a) If a claimant for the homeowners' property tax exemption fails to file the required affidavit with the assessor by 5 o'clock p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claims on or before the following December 1, an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On such claims filed pursuant to subdivision (a) after November 15, this partial homeowners' exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10 and a 6-percent penalty will attach if the tax amount due is not paid.

If this partial homeowners' exemption is applied to the second

installment and if both installments are paid on or before December 10 or if the reduction in taxes from this partial exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 14. Section 276 of the Revenue and Taxation Code is amended to read:

276. (a) If a claimant for the disabled veterans' property tax exemption for the 1976–77 fiscal year or any year thereafter fails to file the required affidavit with the assessor by 5 o'clock p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claims on or before the following December 1, an exemption of the lesser of thirty-two thousand dollars ($32,000) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and a 6-percent penalty will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 15. Section 401 of the Revenue and Taxation Code is amended to read:

401. Every assessor shall assess all property subject to general property taxation at its full value.

SEC. 16. Section 435 of the Revenue and Taxation Code is amended to read:

435. (a) In preparing the assessment roll for the 1977–78 fiscal year and each fiscal year thereafter, the assessor shall use as the value of each parcel of timberland the appropriate grade value certified to him by the board, pursuant to Section 434.5 plus the value, if any, attributable to existing, compatible, nonexclusive uses of the land. Assessments of values attributable to compatible uses determined in accordance with this part are subject to the appeals procedure established by law for other assessments.

(b) Nothing in this article shall prevent the assessor in valuing timberland from taking into consideration the existence of any mines, minerals, and quarries in or upon the land being valued, including, but not limited to, geothermal resources and oil, gas, and other hydrocarbon substances.

(c) The provisions of this article shall not apply to any structure on the land being valued or to an area of reasonable size used as a site for approved compatible uses.

SEC. 17. Section 619 of the Revenue and Taxation Code is amended to read:

619. The assessor shall, upon, or prior to, completion of the local

roll, either:

(a) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(b) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

The information given by the assessor to the assessee pursuant to subdivision (a) or (b) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protest will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

The information shall also include the full value of the property.

The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(c) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

SEC. 17.1. Section 619 of the Revenue and Taxation Code is amended to read:

619. (a) The assessor shall, upon, or prior to, completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to subdivision (a) or (b) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protest will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the full value of the property.

(d) The information shall be furnished by the assessor to the

assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

SEC. 18. Section 619.2 of the Revenue and Taxation Code is amended to read:

619.2. Where the personal property on the secured roll of a person not required to file a property statement pursuant to Section 441 is assessed in excess of one thousand dollars ($1,000), excluding household furnishings and personal effects, the assessor, on or before July 15, may notify the assessee of the full value, the assessed value of such property, and the ratio used in the manner prescribed by Sections 619 and 619.1.

If the assessee does not receive notice of the assessment pursuant to this section, the assessee may pay taxes based upon such assessment under protest and obtain equalization of the assessment in the same manner as set forth in Section 620.

SEC. 19. Section 722 of the Revenue and Taxation Code is amended to read:

722. State-assessed property shall be assessed at its fair market value or full value as of 12:01 a.m. on the first day of March. The board shall annually prepare an assessment roll of the assessments made by it for transmittal to county auditors and city auditors as hereinafter provided in this chapter.

SEC. 20. Section 1606 of the Revenue and Taxation Code is amended to read:

1606. (a) At the time of filing the application or at any time prior to 20 days before the commencement of the hearing on the application, any applicant for a change of an assessment on the local roll or the assessor, in those cases where the assessed value of the property involved, as shown on the current assessment roll, exceeds one hundred thousand dollars ($100,000) without regard to any exemptions, may cause an exchange of information between himself and the other party by submitting the following data to the other party in writing:

(1) Information stating the basis of such party's opinion of value.

(2) When the opinion of value is to be supported with evidence of comparable sales, information identifying the properties with sufficient certainty such as by assessor parcel number, street address

or legal description of the property, the approximate date of sale, the applicable zoning, the price paid, and the terms of the sale, if known.

(3) When the opinion of value is to be supported with evidence based on an income study, information relating to income, expenses and the capitalization method.

(4) When the opinion of value is to be supported with evidence of replacement costs, information relating to date of construction, type of construction, replacement cost of construction, obsolescence, allowance for extraordinary use of machinery and equipment, and depreciation allowances.

(b) Notwithstanding any limitation on assessed value contained in subdivision (a), if an applicant for a change of an assessment or the assessor has submitted the data required by subdivision (a) within the specified time, at least 10 days prior to the hearing the other party shall submit to the party who caused the exchange of information in writing the following data:

(1) Information stating the basis of such other party's opinion of value.

(2) When the opinion of value is to be supported with evidence of comparable sales, information identifying the properties with sufficient certainty such as by assessor parcel number, street address or legal description of the property, the approximate date of sale, the applicable zoning, the price paid, and the terms of the sale, if known.

(3) When the opinion of value is to be supported with evidence based on an income study, information relating to income, expenses and the capitalization method.

(4) When the opinion of value is to be supported with evidence of replacement cost, information relating to date of construction, type of construction, replacement cost of construction, obsolescence, allowance for extraordinary use of machinery and equipment, and depreciation allowance.

The person assigning a hearing date shall provide adequate notice to the parties of such date, so that the exchange of information permitted by this section can be made without requiring a continuance of the hearing.

Whenever information has been exchanged pursuant to this section the parties may not introduce evidence on matters not so exchanged unless the other party consents to such introduction. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces new material at the hearing, the other party, upon his request, shall be granted a continuance for a reasonable period of time.

Nothing in this section shall be construed as an intent of the Legislature to change, alter or modify generally acceptable methods of using the sales approach, income approach, or replacement cost approach to determine full cash value.

SEC. 21. Section 1637 of the Revenue and Taxation Code is amended to read:

1637. Hearings before an assessment hearing officer shall be conducted pursuant to the provisions of Article 1 (commencing with Section 1601) of this chapter governing equalization proceedings by a county board of equalization or an assessment appeals board. The assessment hearing officer may conduct hearings on applications where:

(a) The applicant is the assessee and has filed an application under Section 1607;

(b) The total assessed value of the property under consideration, as shown on the current assessment roll, does not exceed one hundred thousand dollars ($100,000); or the property under consideration is a single-family dwelling, condominium or cooperative, or a multiple-family dwelling of four units or less regardless of value; and

(c) The applicant has requested that the hearing be held before an assessment hearing officer.

SEC. 22. Section 2260.5 is added to the Revenue and Taxation Code, to read:

2260.5. For the purpose of establishing maximum property tax rates, whenever there is a comparison of rates between two or more years that have different assessment ratios or methods of expressing the tax rate, the rates and ratios shall be adjusted as provided in Section 135.

SEC. 23. Section 2611.5 of the Revenue and Taxation Code is amended to read:

2611.5. (a) The following information shall be included either in each county tax bill or in a separate statement accompanying the tax bill:

(1) The full value and the assessed value of locally assessed property; if in addition thereto a different assessment is required for irrigation district purposes pursuant to Section 26625.1 of the Water Code, the assessed value for such purpose.

(2) The assessment ratio used to determine the assessed value.

(3) The tax rates or the dollar amounts of taxes levied by each revenue district and taxing agency on the property covered by the tax bill. An asterisk, or other distinctive mark, shall appear before the names of all special districts for which the county board of supervisors serves as the governing body.

(4) In lieu of itemizing the information required by paragraph (3) of this subdivision, the tax rates or dollar amounts of taxes levied on the property covered by the bill for county and city purposes. The tax rates or dollar amounts of taxes levied on the property for other purposes shall be itemized. This option is available only if the information is included on the tax bill.

(b) With respect to any property for which the homeowners' property tax exemption is granted, the tax bill or accompanying statement shall include, in addition to the information required by subdivision (a), the following:

(1) The assessed value of the property;

(2) The amount of the homeowners' exemption;

(3) The total tax rate applicable on the property covered by the tax bill;

(4) The gross taxes prior to the application of the homeowners' exemption;

(5) The amount of tax reduction attributable to the homeowners' exemption; and

(6) The total taxes due on the property covered by the tax bill.

(c) The information required by subdivision (b) for single-family homes shall be in the form of the following example:

(1) Assessed value of the property	$30,000
(2) Homeowners' exemption	$7,000
(3) Total tax rate applicable to the property	1%
(4) Gross taxes prior to the application of the homeowners' exemption	$300
(5) Tax reduction attributable to the state-financed homeowners' property tax relief program	$70
(6) Total taxes due	$230

(d) In any year in which all of the assessments on the local secured roll have been raised or lowered as a result of a board order adopted pursuant to Section 18, Article XIII of the California Constitution, the full value may be omitted or, if shown, the tax bill shall include an explanation of the inconsistency of that figure with the equalized assessed value and the announced assessment ratio. The explanation required by this subdivision may be printed on an enclosure accompanying such bill.

SEC. 24. Section 2905 of the Revenue and Taxation Code is amended to read:

2905. In collecting taxes on unsecured property the tax rate to be used is the rate for property of the same kind on the secured roll last fixed before the lien date for the taxes to be collected. In the event that the assessment ratio is changed, the tax rate for unsecured property shall reflect the difference in ratios and shall be based on the assessment ratio for the current year. In collecting taxes on unsecured property that escaped taxation in any prior year or years the rate to be used shall be the rate to which the property would have been subject if it appeared upon the roll in the year when it should have been lawfully assessed. In the event the assessment ratio is changed, the assessed value utilized in determining the amount of the escape assessment shall be that which would have been employed in the year when it should have been lawfully assessed. The taxes on unsecured property shall be computed in dollars and cents, rejecting the fractions of a cent.

SEC. 25. Section 4836.5 of the Revenue and Taxation Code is amended to read:

4836.5. In the event any correction authorized under this article has the effect of increasing the assessment, the board of supervisors shall apply a tax rate to such increase at whatever tax rate was in

existence in the year in which the error was made and shall apply the assessment ratio that was in existence in the year in which the error was made. All increased amounts of taxes shall be entered on the roll prepared or being prepared for the current assessment year and shall thereafter be treated and collected like other taxes on said roll; provided, however, that if the correction affects taxes on the secured roll for any year and subsequent to the entry of the original assessment but prior to the date of such correction the real property on which such taxes constitute a lien has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a bona fide encumbrance for value, such increased amount of taxes shall not create, impose or constitute a lien on such real property shall be entered on the unsecured roll in the name of the assessee at the time the error was made and shall thereafter be treated and collected like other taxes on such roll.

The entry on the unsecured roll shall be followed with "Correction to account or Parcel Number _____ for the 19____-19____ assessment year pursuant to Section (s) _____ of the Revenue and Taxation Code." The foregoing entry may be made on a document separate from the roll if reference is made on the roll to the document wherein the entry is made.

SEC. 26. Section 11251 of the Revenue and Taxation Code is amended to read:

11251. Private cars operated upon railroads into, out of, or through this state shall be assessed by the board at their full cash value and taxed as prescribed in this part.

SEC. 27. Section 11401 of the Revenue and Taxation Code is amended to read:

11401. On or before October 1, the board shall levy upon private cars assessed under this part, for each year, a tax computed at the next preceding year's average rate of general property taxation in the state and shall enter the tax upon a record maintained by the board for that purpose. In computing this tax the calculation shall be based upon the same assessment ratio and the same method of expressing the tax rate for the current year and the year in which the rate is obtained, and the rate and ratio shall be adjusted and provided in Section 135.

SEC. 27.1. Section 20542 of the Revenue and Taxation Code is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the full value of the residential dwelling up to, and including, thirty-four thousand dollars ($34,000). No assistance shall be allowed for property taxes paid on that portion of full value of a

residential dwelling exceeding thirty-four thousand dollars ($34,000). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.

(b) For purposes of allowing assistance provided for by this section:

(1) (A) Only one owner-claimant from one household each year shall be entitled to assistance under this chapter. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(B) When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and, if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 20563.

SEC. 27.2. Section 20542 of the Revenue and Taxation Code is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the full value of the residential dwelling up to, and including, thirty-four thousand dollars ($34,000). No assistance shall be allowed for property taxes paid on that portion of full value of a residential dwelling exceeding thirty-four thousand dollars ($34,000). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.

(b) For purposes of allowing assistance provided for by this section:

(1) (A) Only one owner-claimant from one household each year shall be entitled to assistance under this chapter. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(B) When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and, if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 20563.

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640) of this part, then any claim for assistance under this chapter for the same property tax fiscal year shall be filed by such individual (assuming all other eligibility requirements in this chapter are satisfied) and not an otherwise qualified member of the individual's household.

SEC. 27.3. Section 20543 of the Revenue and Taxation Code is amended to read:

20543. The amount of assistance for a claimant owning his residential dwelling shall be based on claimant's household income for the period set forth in Section 20503.

The percentage of assistance for which each claimant owning his residential dwelling shall be eligible shall be based on the following scale:

If the total household income (as defined in this part) is not more than	The percentage of tax on the first $34,000 of full value (as determined for tax purposes) used to provide assistance is
$3,000	96%
3,200	94
3,400	92
3,600	90
3,800	88
4,000	86
4,200	84
4,400	82
4,600	80
4,800	78
5,000	76
5,200	73
5,400	69
5,600	65
5,800	61
6,000	57
6,200	53
6,400	49
6,600	45
6,800	41
7,000	37
7,200	34
7,400	31
7,600	28
7,800	25
8,000	22
8,200	20
8,400	18
8,600	16
8,800	14
9,000	12
9,500	10
10,000	8
10,500	7
11,000	6
11,500	5
12,000	4

SEC. 28. Section 22 is added to the Welfare and Institutions Code, to read:

22. (a) For purposes of this code, "assessed value" means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years thereafter; and tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars ($100) of assessed value to and including the 1980–81 fiscal year and as a percentage of full value for

the 1981–82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 22. This act shall become operative on January 1, 1981, and shall be applied with regard to the 1981–82 fiscal year and fiscal years thereafter.

It is the intent of the Legislature in postponing the operative date of this act until 1981 that all affected state and local agencies will review the statutes affecting their duties to determine what effect, if any, the passage of this act will have on those statutes, and that such agencies will report to the Legislature, and to the State Board of Equalization which shall coordinate such reporting, any amendments to the various codes they believe to be necessary to properly implement this act.

SEC. 30. This act shall not become operative unless Senate Constitutional Amendment No. 60 of the 1977–78 Regular Session of the Legislature is approved by the voters.

SEC. 31. It is the intent of the Legislature that if this bill and Assembly Bill No. 2871 or Assembly Bill No. 955, or both, are chaptered and amend Section 205.5 of the Revenue and Taxation Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 2871 are both chaptered and amend Section 205.5 of the Revenue and Taxation Code, but Assembly Bill No. 955 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2871, that Section 205.5 of the Revenue and Taxation Code, as amended by Assembly Bill No. 2871 be further amended on the operative date of this act in the form set forth in Section 10.1 of this act to incorporate the changes in Section 205.5 proposed by this bill. Therefore, Section 10.1 of this act shall become operative only if Assembly Bill No. 2871 is chaptered before this bill and amends Section 205.5, and in such case Section 10.1 of this act shall become operative on the operative date of this act and Sections 10, 10.2 and

10.3 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 955 are both chaptered and amend Section 205.5 of the Revenue and Taxation Code, but Assembly Bill No. 2871 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 955, that Section 205.5 of the Revenue and Taxation Code, as amended by Assembly Bill No. 955 be further amended on the operative date of this act in the form set forth in Section 10.2 of this act to incorporate the changes in Section 205.5 proposed by this bill. Therefore, Section 10.2 of this act shall become operative only if Assembly Bill No. 955 is chaptered before this bill and amends Section 205.5, and in such case Section 10.2 of this act shall become operative on the operative date of this act and Sections 10, 10.1 and 10.3 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2871 and Assembly Bill No. 955 are all chaptered and amend Section 205.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2871 and Assembly Bill No. 955, that Section 205.5 of the Revenue and Taxation Code, as amended by Assembly Bill No. 2871 and Assembly Bill No. 955 be further amended on the operative date of this act in the form set forth in Section 10.3 of this act to incorporate the changes in Section 205.5 proposed by this bill. Therefore, Section 10.3 of this act shall become operative only if Assembly Bill No. 2871 and Assembly Bill No. 955 are chaptered before this bill and amend Section 205.5, and in such case Section 10.3 of this act shall become operative on the operative date of this act and Sections 10, 10.1 and 10.2 of this act shall not become operative.

SEC. 32. It is the intent of the Legislature, if this bill and Senate Bill No. 2241 are both chaptered and amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 2241, that Section 619 of the Revenue and Taxation Code, as amended by Senate Bill No. 2241 be further amended on the operative date of this act in the form set forth in Section 17.1 of this act to incorporate the changes in Section 619 proposed by this bill. Therefore, Section 17.1 of this act shall become operative only if Senate Bill No. 2241 is chaptered before this bill and amends Section 619, and in such case Section 17.1 of this act shall become operative on the operative date of this act and Section 17 of this act shall not become operative.

SEC. 33. It is the intent of the Legislature, if this bill and Assembly Bill No. 2463 are both chaptered and amend Section 20542 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2463, that Section 20542 of the Revenue and Taxation Code, as amended by Assembly Bill No. 2463 be further amended on the operative date of this act in the form set forth in Section 27.2 of this act to incorporate the changes in Section 20542 proposed by this bill. Therefore, Section 27.2 of this act shall become operative only if Assembly Bill No. 2463 is chaptered before this bill and amends Section 20542, and in such case Section 27.2 of this act

shall become operative on the operative date of this act and Section 27.1 of this act shall not become operative.

CHAPTER 1208

An act to amend Sections 2902, 2903, 2908, 2913, 2914, 2920, 2925, 2936, 2941, 2942, 2944, 2960, 2961, 2963, 2980, 2981, 2982, 2983, 2984, and 2995 of, to amend and renumber Sections 2949 and 2950 of, to add Sections 2947, 2966, 2967, 2968, 2969, 2987.5, 2988, and 2995.8 to, and to repeal Sections 2906, 2934, and 2995.8 of, the Business and Professions Code, relating to psychologists, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this act expressly otherwise provided:

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, and which license is in force and has not been suspended or revoked.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance. "Committee" means the Psychology Examining Committee.

(c) A person represents himself to be a psychologist when he holds himself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," "psychoanalyst" or when he holds himself out to be trained, experienced or an expert in the field of psychology.

(d) "Accredited," as used herein with reference to academic institutions, means accredited under the provisions of paragraph (1) of subdivision (a) of Section 94310 of the Education Code.

(e) "Approved," as used herein with reference to academic institutions, means approved under the provisions of paragraph (2) of subdivision (a) of Section 94310 of the Education Code.

SEC. 2. Section 2903 of the Business and Professions Code is amended to read:

2903. No person may engage in the practice of psychology, or represent himself to be a psychologist, without a license granted under this chapter, except as otherwise provided in this chapter. The practice of psychology is defined as rendering or offering to render for a fee to individuals, groups, organizations or the public any

psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships; and the methods and procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations.

The application of such principles and methods includes, but is not restricted to: diagnosis, prevention, treatment, and amelioration of psychological problems and emotional and mental disorders of individuals and groups.

Psychotherapy within the meaning of this chapter means the use of psychological methods in a professional relationship to assist a person or persons to acquire greater human effectiveness or to modify feelings, conditions, attitudes and behavior which are emotionally, intellectually, or socially ineffectual or maladjustive.

As used in this chapter, "fee" means any charge, monetary or otherwise, whether paid directly or paid on a prepaid or capitation basis by a third party, or a charge assessed by a facility, for services rendered.

SEC. 3. Section 2906 of the Business and Professions Code is repealed.

SEC. 4. Section 2908 of the Business and Professions Code is amended to read:

2908. Nothing in this chapter shall be construed to prevent qualified members of other recognized professional groups licensed to practice in the State of California, such as, but not limited to, physicians, clinical social workers, educational psychologists, marriage, family and child counselors, optometrists, psychiatric technicians, or psychiatric nurses who are registered nurses in the State of California and who work under the supervision of a licensed physician or a licensed psychologist, or attorneys admitted to the California State Bar, or persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders, or duly ordained members of the recognized clergy, or duly ordained religious practitioners from doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrist," "psychometrics," or, "psychometry" or that they do not state or imply that they are licensed to practice psychology; except that persons licensed under Article 5 (commencing with Section 17860) of Chapter 4, Part 3, Division 7 of this code may hold themselves out to the public as licensed

educational psychologists.

SEC. 5. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, by a psychological corporation registered under Section 2995, or by a medical corporation registered under Section 2500 to perform limited psychological functions provided that:

(a) Such person is termed a "psychological assistant."

(b) Such person has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university, college, or professional school. In addition, within four years from the effective date of amendments made to this section by the 1978 portion of the 1977–78 Legislature, such person to maintain registration as a "psychological assistant," and to be entitled to use such title, shall have completed all requirements for a master's degree from an accreditied or approved university, college, or professional school. Within one year from the effective date of amendments made to this section by the 1978 portion of the 1977–78 Legislature, a master's degree in (1) psychology, or (2) education with the field of specialization in psychology or counseling psychology from an accredited or approved university, college, or professional school shall be required of all new registrants as psychology assistants.

(c) Such person is at all times under the immediate supervision, as defined in regulations adopted by the committee, of a licensed psychologist, or board certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, psychological corporation, or medical corporation, has registered the psychological assistant with the committee. Such registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ or supervise more than three such psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one such psychological assistant at any given time. No contract clinic, psychological corporation, or medical corporation may employ more than 10 such assistants at any one time. No contract clinic may register, employ, or provide supervision for more than one

psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises such psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation or medical corporation.

(e) Such psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 6. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, (3) in education with the field of specialization in counseling psychology or educational psychology, or (4) possess an earned doctorate degree deemed equivalent by the committee in regulations duly adopted under this chapter. Such degree or training shall be obtained from an accredited or approved university, college, professional school, or any other educational institution approved by the committee as offering a comparable program in regulations duly adopted under this chapter.

No educational institution shall be denied recognition as an accredited or approved academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this act or in the administration of this act shall require the registration with the committee by educational institutions of their departments of psychology or their doctoral programs in psychology.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the committee in its regulations, or such suitable alternative supervision as determined by the committee in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the committee under the provisions of this chapter.

SEC. 7. Section 2920 of the Business and Professions Code is amended to read:

2920. The Psychology Examining Committee of the Board of Medical Quality Assurance of the Department of Consumer Affairs shall administer the provisions of this chapter. The committee shall consist of eight members appointed by the Governor, three of whom

shall be public members.

SEC. 8. Section 2925 of the Business and Professions Code is amended to read:

2925. The committee shall elect annually a chairperson and vice chairperson from among its members.

SEC. 10. Section 2934 of the Business and Professions Code is repealed.

SEC. 10.3. Section 2936 of the Business and Professions Code is amended to read:

2936. The committee shall by rule or regulation, establish standards of ethical conduct relating to the practice of psychology.

The committee shall periodically evaluate the relevancy and efficacy of the standards.

In establishing these standards, the committee may consider codes of ethics of relevant professional organizations, information and complaints regarding issues of ethical conduct from consumers of psychological services and other providers of mental health services. The committee shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology.

The adoption, amendment, or repeal of such rules or regulations shall be made in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location, a notice which reads as follows:

"NOTICE: The Department of Consumer Affairs receives questions and complaints regarding the practice of psychology. If you have any questions or complaints, you may contact this department by calling (insert appropriate regional number) or (insert appropriate telephone number), or by writing to the following address:

Board of Medical Quality Assurance
Allied Health Complaints
1430 Howe Avenue
Sacramento, California 95825"

SEC. 10.5. Section 2941 of the Business and Professions Code is amended to read:

2941. Each applicant for a psychology license shall be examined by the committee, and shall pay to the board, at least 30 days prior to the date of examination, the examination fee prescribed by Section 2987, which fee shall not be refunded by the board.

SEC. 12. Section 2942 of the Business and Professions Code is amended to read:

2942. The committee may examine by written or oral examination or by both. The examination shall be given at least twice a year at the time and place and under such supervision as the committee may determine. A grade of 75 percent shall be a passing

grade.

Examinations for a psychologist's license may be conducted by the committee under a uniform examination system, and for that purpose the committee may make such arrangements with organizations furnishing examination material as may in its discretion be desirable.

SEC. 13. Section 2944 of the Business and Professions Code is amended to read:

2944. The committee shall grade the written examination and keep the written examination papers for at least one year, unless a uniform examination is conducted pursuant to Section 2942.

SEC. 13.2. Section 2947 is added to the Business and Professions Code, to read:

2947. The committee may appoint qualified persons to give the whole or any portion of any examination provided for in this chapter, who shall be designated as commissioners on examination. A commissioner on examination need not be a member of the committee but he or she shall have the same qualifications as a member of the committee, including those set forth in Chapter 6 (commencing with Section 450) of Division 1.

Public commissioners may examine and evaluate candidates in areas of knowledge such as the law, ethics, and awareness of community resources.

SEC. 13.4. Section 2949 of the Business and Professions Code is amended and renumbered to read:

2987. The amount of the fees prescribed by this chapter shall be determined by the committee subject to the review and approval of the Board of Medical Quality Assurance, and shall be as follows:

(a) The application fee for a psychologist shall not be more than fifty dollars ($50).

(b) The examination fee for a psychologist shall not be more than one hundred dollars ($100).

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The biennial renewal fee for a psychologist shall not be more than one hundred fifty dollars ($150).

(e) The application fee for registration and supervision of a psychological assistant by a supervisor under Section 2913, which is payable by such supervisor, shall not be more than seventy-five dollars ($75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars ($75).

(g) The duplicate license or registration fee is five dollars ($5).

(h) The delinquency fee is twenty-five dollars ($25).

(i) The endorsement fee is five dollars ($5).

SEC. 14. Section 2950 of the Business and Professions Code is amended and renumbered to read:

2989. The fees in this article shall be fixed by the committee and shall be set forth with the regulations which are duly adopted under this chapter.

SEC. 15. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for, or issue with terms and conditions, or the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a license or registration for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

SEC. 16. Section 2961 of the Business and Professions Code is amended to read:

2961. The board shall deny an application for, or issue with terms

and conditions, or suspend or revoke, or impose probationary conditions upon, a license or registration as ordered by the committee in any decision made after hearing as provided in Section 2965.

SEC. 17. Section 2963 of the Business and Professions Code is amended to read:

2963. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions and duties of a psychologist or psychological assistant is deemed to be a conviction within the meaning of this article. At the direction of the committee, the board shall order the license suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 18. Section 2966 is added to the Business and Professions Code, to read:

2966. Whenever it appears to the committee that a licensed psychologist or registered psychological assistant is mentally ill to the extent that it affect his or her ability to conduct with safety to the public the practice authorized by such license or registration he or she holds, the committee may order the psychologist or psychological assistant to be examined by two or more psychologists or physicians specializing in psychiatry designated by the committee. The report of such persons shall be made available to the psychologist or psychological assistant and may be received as direct evidence in a proceeding conducted pursuant to Section 2967.

SEC. 19. Section 2967 is added to the Business and Professions Code, to read:

2967. If a licensed psychologist or registered psychological assistant becomes mentally ill to such an extent as to affect his or her ability to conduct with safety the practice authorized by such license or registration the committee may take action by any one of the following methods:

(a) Suspending judgment.

(b) Placing him or her upon probation.

(c) Suspending his or her right to practice for a period not exceeding one year.

(d) Revoking his or her license or registration.

(e) Taking such other action in relation to the license or registration as the committee in its discretion deems proper.

The committee shall not restore such license or registration to good standing until it shall receive competent evidence of the absence or control of the condition which caused its action and until

it is satisfied that with due regard to the public interest the person's right to practice may be safely reinstated.

Before reinstating such a person, the committee may require the person to pass an oral examination, to determine his or her fitness to resume practice.

SEC. 20. Section 2968 is added to the Business and Professions Code, to read:

2968. The committee may proceed against a licensee or registrant under either Section 2966 or 2967, or both such sections.

SEC. 21. Section 2969 is added to the Business and Professions Code, to read:

2969. In setting aside action taken under Section 2966 or 2967, the committee may impose terms and conditions to be followed by the licensed psychologist or registered psychological assistant after his or her license or registration has been reinstated. The authority of the committee to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the psychologist or psychological assistant to obtain additional professional training and to pass an oral examination upon the completion of the training.

(b) Requiring the psychologist or psychological assistant to submit to a complete diagnostic examination by two or more independent psychologists or physicians and surgeons appointed by the committee. If the committee requires the license or registration holder to submit to such an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more psychologists or physicians of the psychologist's or psychological assistant's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the psychologist or psychological assistant.

SEC. 22. Section 2980 of the Business and Professions Code is amended to read:

2980. The board shall report to the State Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and at the time shall pay the entire amount thereof into the Contingent Fund of the Board of Medical Quality Assurance of the State of California.

SEC. 23. Section 2981 of the Business and Professions Code is amended to read:

2981. The money in the Contingent Fund of the Board of Medical Quality Assurance of the State of California necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

SEC. 23.3. Section 2982 of the Business and Professions Code is amended to read:

2982. All licenses expire and become invalid at 12 midnight on the last day of February, 1980, and thereafter shall expire at 12 midnight of the legal birth date of the licensee during the second

year of a two-year term, if not renewed.

The committee shall establish by regulation procedures for the administration of the birth date renewal program, including but not limited to, the establishment of a pro rata formula for the payments of fees by licentiates affected by the implementation of such program and the establishment of a system of staggered license application dates such that a relatively equal number of licenses expire annually.

To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the committee, accompanied by the prescribed renewal fee.

SEC. 23.4. Section 2983 of the Business and Professions Code is amended to read:

2983. Every person to whom a license is issued after December 31, 1968, shall, as a condition precedent to its issuance, and in addition to any application, examination or other fee, pay the prescribed initial license fee, if any. The committee, may, by regulation provide for the waiver or refund of the initial license fee, however, where the license is issued less than 45 days before the date on which it will expire.

SEC. 24. Section 2984 of the Business and Professions Code is amended to read:

2984. Except as provided in Section 2985, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Section 2982 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

SEC. 24.3. Section 2987.5 is added to the Business and Professions Code, to read:

2987.5. Every person licensed under this chapter is exempt from the payment of the renewal fee in any one of the following instances:

While engaged in full-time active service in the Army, Navy, Air Force or Marines, or in the United States Public Health Service, or while a volunteer in the Peace Corps or Vista.

Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for such fee for the current renewal period upon the completion of his or her period of full-time active service and shall have a period of 60 days after becoming liable within which to pay the fee before the delinquency fee becomes applicable. Any person

who completes his or her period of full-time active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period.

The time spent in such full-time active service or full-time training and active service shall not be included in the computation of the five-year period for renewal of a license provided in Section 2944(d).

The exemption provided by this section shall not be applicable if the person engages in any practice for compensation other than full-time service in the Army, Navy, Air Force or Marines or in the United States Public Health Service or the Peace Corps or Vista.

SEC. 24.5. Section 2988 is added to the Business and Professions Code, to read:

2988. The amount of fees payable in connection with permits issued under Section 2995.8 is as follows:

(a) The initial permit fee shall be fixed by the committee at not more than forty dollars ($40), except that if the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee fixed by the committee.

(b) The renewal fee shall be fixed by the committee at not more than forty dollars ($40).

(c) The delinquency fee is fifteen dollars ($15).

SEC. 25. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation which is registered with the Psychology Examining Committee of the Board of Medical Quality Assurance of the State of California and has a currently effective certificate of registration from such committee pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and this article. Subject to all applicable statutes, rules, and regulations, such psychological corporation is entitled to practice psychology or psychology and medicine. Any physician who is a shareholder in such corporation within the provisions of Section 13401 of the Corporations Code may practice individually the professional services for which he is licensed through and in the name of such corporation. The governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Psychology Examining Committee of the Board of Medical Quality Assurance of the State of California.

SEC. 26. Section 2995.8 of the Business and Professions is repealed.

SEC. 27. Section 2995.8 is added to the Business and Professions Code, to read:

2995.8. (a) The name of a psychology corporation and any name or names under which it may do business, shall contain one of the words specified in subdivision (c) of Section 2902, and wording or abbreviations denoting corporate experience.

(b) The name of a psychology corporation and any name or names under which it may do business, shall be restricted to the name or

the last name of one or more of the present, prospective or former shareholders, unless the corporation obtains a permit issued under this section authorizing the use of a fictitious name which complies with subdivision (a) and is not found by the committee to be false or misleading, to have a tendency to mislead the public, or so similar to a name previously authorized in the same geographical area as to be misleading or subject to confusion with a previously approved fictitious name.

(c) Before a permit may be issued the applicant shall pay the initial permit fee required in Section 2988.

(d) All permits expire and become invalid at 12 p.m. on the last day of February of each even-numbered year if not renewed. To renew an unexpired permit each psychology corporation shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the committee, accompanied by the prescribed renewal fee.

(e) In the event charges of unprofessional conduct are filed against the psychology corporation, proceedings may be commenced concurrently for suspension or revocation of the permit issued under this section.

CHAPTER 1209

An act to amend the heading of Part 6 (commencing with Section 11201) of Division 2 of, to amend Sections 11201, 11203, 11251, 11252, 11271, 11291, 11293, 11316, 11317, 11401, 11403, 11426, 11651.5, 11652, 11653, and 11654 of, and to add Sections 5367 and 11340 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 5367 is added to the Revenue and Taxation Code, to read:

5367. If any person who is requested to file a statement pursuant to Section 5365 fails to file such statement by the time specified by the assessor, a penalty of 10 percent of the market value of the unreported aircraft shall be added to the value of the aircraft of such person which is placed on the current roll.

If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the statement was due to reasonable cause and not due to willful neglect, it may order the penalty abated; provided, that the assessee has filed with the county board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

If the penalty is abated, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

SEC. 2. The heading of Part 6 (commencing with Section 11201) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 6. PRIVATE RAILROAD CAR TAX

SEC. 3. Section 11201 of the Revenue and Taxation Code is amended to read:

11201. This part is known and may be cited as the "Private Railroad Car Tax Law."

SEC. 4. Section 11203 of the Revenue and Taxation Code is amended to read:

11203. (a) "Private railroad car" includes a passenger car, sleeping car, dining car, express car, refrigerator car, oil or tank car, horse or stock car, fruit car, or car designed for the carrying of a special commodity, operated upon the railroads in this state, which car is owned by any of the following:

(1) A sleeping car, dining car, drawing room or palace car company, refrigerator, oil, stock, or other car loaning, or other car company.

(2) By a person engaged in manufacturing, commerce, or other business.

(3) By any other person.

(b) "Private railroad car" also includes any passenger train car, locomotive, or other equipment operated on the railroads in this state and owned, used, or leased by the National Railroad Passenger Corporation, created under the Rail Passenger Service Act of 1970 (Public Law 91-518, 91st Congress), or any successor in interest other than a railroad company.

(c) "Private railroad car" does not include:

(1) Freight train or passenger train cars owned by railroad companies which are used or subject to use under the ordinary per diem agreement common to all railroads.

(2) Freight train or passenger cars handled under mileage or through line contract arrangements between railroad companies.

(3) Cars owned by or leased to any railroad company operating in this state, or by any railroad company operated as a part of the same railroad system as the company operating in this state, and used by the railroad company in the operation, maintenance, construction, or reconstruction of its property and assessed and taxed in this state as a part of the property of a railroad company operating in this state.

(4) Passenger train cars, other than those described in subdivision (b), that are privately owned and for which the owner pays the railroad a fee, regardless of how calculated, for transporting such cars.

SEC. 5. Section 11251 of the Revenue and Taxation Code is amended to read:

11251. Private railroad cars operated upon railroads into, out of,

or through this state shall be assessed by the board at 25 percent of their full cash value and taxed as prescribed in this part.

SEC. 6. Section 11252 of the Revenue and Taxation Code is amended to read:

11252. The tax imposed in this part is in lieu of all other state, county, municipal, or district taxes, according to value, upon private railroad cars and property incidental to their operations, the value of which property is included in the assessment of the cars.

SEC. 7. Section 11271 of the Revenue and Taxation Code is amended to read:

11271. (a) Every person whose private railroad cars are operated upon the railroads in this state at any time during a calendar year shall file with the board on or before April 30 a report under oath setting forth specifically the information prescribed by the board to enable it to make the assessment required in this part.

(b) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or by an employee or agent who has been designated in writing by the board of directors to sign such report on behalf of the corporation.

SEC. 8. Section 11291 of the Revenue and Taxation Code is amended to read:

11291. The value of private railroad cars assessed under this part shall include all materials and supplies held, stored, or used in this state by the person owning the private railroad cars, or the receiver or trustee in control thereof, for the purpose of repairing, improving, servicing, or operating the cars. The value of the cars assessed shall not include tools, shop equipment, or other like items of personal property customarily kept or maintained at fixed locations for use in repairing, improving, servicing, or operating the cars.

SEC. 9. Section 11293 of the Revenue and Taxation Code is amended to read:

11293. In making an assessment the board shall determine the average number of each class of private railroad cars physically present in the state in the year immediately preceding the year in which the tax is imposed upon the basis of car mileage, car days, or such other data as would tend to establish this average. The board shall multiply the average number so determined by the full cash value for a car of that class and use the product as the basis for the assessment of the property.

SEC. 10. Section 11316 of the Revenue and Taxation Code is amended to read:

11316. If the board makes an assessment pursuant to Section 11311, 11314, or 11315 due to the negligence of the taxpayer, a penalty of 10 percent of the value of the estimated or escape assessment shall be added to the assessment. If the estimated or escape assessment is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the value of the estimated or escape assessment shall be added to the assessment. A willful failure to file a report as required by Article 2 (commencing with Section 11271) of this

chapter shall be deemed to be a willful attempt to evade the tax.

SEC. 11. Section 11317 of the Revenue and Taxation Code is amended to read:

11317. An escape assessment shall be entered on the current private railroad car tax record, and if this is not the record for the year in which the property escaped assessment, the entry shall be followed with "escape assessment for year 19____". The property shall be assessed at the same value and taxed at the same rate as it would have been assessed and taxed had it not escaped.

SEC. 12. Section 11340 is added to the Revenue and Taxation Code, to read:

11340. Every petition for reassessment filed under Section 11338 or Section 11339 shall be in writing and shall state the specific grounds upon which the petition is founded. The petition shall include a statement of the petitioner's opinion of value of the private railroad cars assessed.

Any petition that does not meet the requirements of this section shall be deemed invalid and shall not be acted upon by the board. A petition timely filed but deemed invalid may be amended or supplemented and refiled within such time as the board may prescribe; provided, however, that no amendment of a petition filed under Section 11338 may be filed later than September 15.

SEC. 13. Section 11401 of the Revenue and Taxation Code is amended to read:

11401. On or before October 1, the board shall levy upon private railroad cars assessed under this part, for each year, a tax computed at the next preceding year's average rate of general property taxation in the state and shall enter the tax upon a record maintained by the board for that purpose.

SEC. 14. Section 11403 of the Revenue and Taxation Code is amended to read:

11403. The board shall compute the average rate of general property taxation in the state by:

(a) Adding the county, city, school district, and other general taxes, but not the special taxes on intangibles, aircraft, baled cotton or any other property which is subject to a uniform statewide tax rate, nor special assessments, and

(b) Dividing the amount obtained by the total assessed valuation in the state as shown by the county tax rolls for the same year.

"Total assessed valuation," as used in this section, does not include the assessments of property which is subject to a uniform statewide tax rate.

"Special assessments," as used in this section, mean any amount levied solely against real estate or real estate and improvements.

SEC. 15. Section 11426 of the Revenue and Taxation Code is amended to read:

11426. When it can be determined by any report or from any papers of the board what was intended or what should have been assessed, defects in form or clerical errors of the board in assessing

private railroad cars may be corrected by the board under this chapter at any time within four years after the assessment was made.

SEC. 16. Section 11651.5 of the Revenue and Taxation Code is amended to read:

11651.5. If the board for any reason fails to complete the private railroad car tax assessments by the time specified in Section 11336, it may nevertheless complete them within the next calendar month. In such case there shall be added one calendar month to the dates specified in Sections 11337, 11338, 11401, 11404, and 11405. The board shall notify each assessee by mail at his address as it appears in the records of the board of the substituted dates during which the assessment may be examined, a petition for reassessment filed, and the tax paid without penalty.

SEC. 17. Section 11652 of the Revenue and Taxation Code is amended to read:

11652. Every person whose property is subject to tax under this part shall keep such records and other pertinent data with respect to the operation of his private railroad cars as the board requires. The board or its authorized representative may examine the records and data.

SEC. 18. Section 11653 of the Revenue and Taxation Code is amended to read:

11653. Every railroad company with lines in this state shall keep such records and other data with respect to the operation of private railroad cars over those lines and make such reports as the board requires. The company shall on demand make the records and data available to the board or its authorized representative.

SEC. 19. Section 11654 of the Revenue and Taxation Code is amended to read:

11654. Any person having private railroad cars in his possession or control in this state shall furnish such data concerning the cars as the board may request.

CHAPTER 1210

An act to amend Section 40802 of, and to add and repeal Section 40802 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION. 1. Section 40802 of the Vehicle Code is amended to read:

40802. A "speed trap" is either of the following:

(a) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in

order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(b) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section 22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects. The provisions of this subdivision do not apply to local streets and roads.

For purposes of this section, local streets and roads shall be defined by the latest functional usage and federal-aid system maps as submitted to the Federal Highway Administration. When these maps have not been submitted, the following definition shall be used: A local street or road primarily provides access to abutting residential property and shall meet the following three conditions:

1. Roadway width of not more than 40 feet,

2. Not more than 1/2 mile of uninterrupted length. Interruptions shall include official traffic control devices as defined in Section 445.

3. Not more than one traffic lane in each direction.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC. 2. Section 40802 is added to the Vehicle Code, to read:

40802. A "speed trap" is either of the following:

(a) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(b) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section 22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects.

This section shall become operative on January 1, 1982.

CHAPTER 1211

An act to add Section 1656.1 to the Civil Code, to amend Sections 6006, 6010, 6010.7, 6012, 6094, 6244, 6357.1, 6357.2, 6401, 6903, 7204.5, 7204.6, 7264, and 7264.1 of, and to repeal Sections 6052, 6052.5, 6053, 6054, and 6054.5 of the Revenue and Taxation Code, relating to sales tax reimbursements.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 1656.1 is added to the Civil Code, to read:

1656.1. (a) Whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale. It shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property sold at retail to a purchaser if:

(1) The agreement of sale expressly provides for such addition of sales tax reimbursement;

(2) Sales tax reimbursement is shown on the sales check or other proof of sale; or

(3) The retailer posts in his premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

(b) It shall be presumed that the property, the gross receipts from the sale of which is subject to the sales tax, is sold at a price which includes tax reimbursement if the retailer posts in his premises, or includes on a price tag or in an advertisement (whichever is applicable) one of the following notices:

(1) "All prices of taxable items include sales tax reimbursement computed to the nearest mill."

(2) "The price of this item includes sales tax reimbursement computed to the nearest mill."

(c) (1) The State Board of Equalization shall prepare and make available for inspection and duplication or reproduction a sales tax reimbursement schedule which shall be identical with the following tables up to the amounts specified therein:

4¾ percent

Price	Tax
.01– .10	.00
.11– .29	.01
.30– .50	.02
.51– .72	.03
.73– .94	.04

5 percent

Price	Tax
.01– .10	.00
.11– .27	.01
.28– .47	.02
.48– .68	.03
.69– .89	.04

.90–1.09	.05

5¼ percent

Price	Tax
.01– .10	.00
.11– .26	.01
.27– .45	.02
.46– .65	.03
.66– .84	.04
.85–1.03	.05

6 percent

Price	Tax
.01– .10	.00
.11– .22	.01
.23– .39	.02
.40– .56	.03
.57– .73	.04
.74– .90	.05
.91–1.08	.06

6¼ percent

Price	Tax
.01– .10	.00
.11– .21	.01
.22– .37	.02
.38– .54	.03
.55– .70	.04
.71– .86	.05
.87–1.03	.06

6½ percent

Price	Tax
.01– .10	.00
.11– .20	.01
.21– .35	.02
.36– .51	.03
.52– .67	.04
.68– .83	.05
.84– .99	.06
1.00–1.15	.07

(2) Reimbursement on sales prices in excess of those shown in the schedules may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(3) If sales tax reimbursement is added to the sales price of tangible personal property sold at retail, the retailer shall use a schedule provided by the board, or a schedule approved by the board.

(d) The presumptions created by this section are rebuttable presumptions.

SEC. 1.5. Section 6006 of the Revenue and Taxation Code is amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor establishes to the satisfaction of the board that the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the retailer has reported and paid the sales tax to the board or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

SEC. 1.7. Section 6006 of the Revenue and Taxation Code is

amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor or establishes to the satisfaction of the board that the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the retailer has reported and paid the sales tax to the board or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) Agricultural equipment as to which the lessor has paid sales tax reimbursement, based on the fair market value of the equipment, pursuant to Section 6052 or has paid use tax measured by the purchase price of such property.

SEC. 2. Section 6010 of the Revenue and Taxation Code is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with Section 6091) of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor establishes to the satisfaction of the board that the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the retailer has reported and paid sales tax to the board or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

SEC. 2.5. Section 6010 of the Revenue and Taxation Code is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

"Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with Section 6091) of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor establishes to the satisfaction of the board that the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the retailer has reported and paid sales tax to the board or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) Agricultural equipment as to which the lessor has paid sales tax reimbursement, based on the fair market value of the equipment, pursuant to Section 6052 or has paid use tax measured by the purchase price of such property.

SEC. 3. Section 6010.7 of the Revenue and Taxation Code is amended to read:

6010.7. Paragraph (5) of subdivision (g) of Section 6006, paragraph (5) of subdivision (e) of Section 6010, and Section 6094.1 shall have no application to a lease of a chemical toilet unit. Such a lease is a "sale" and "purchase" and the taxes imposed by this part apply measured by the lease or rental price accordingly, regardless of whether the unit is leased in substantially the same form as

acquired and regardless of whether sales tax or use tax has been paid with respect to the chemical toilets at the time of their acquisition.

SEC. 3.5. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer.

(3) The price received for labor or services used in installing or applying the property sold.

(4) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or

with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) The amount of any motor vehicle fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

SEC. 4. Section 6052 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 6052.5 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 6053 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 6054 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 6054.5 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 6094 of the Revenue and Taxation Code is amended to read:

6094. (a) If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser under Chapter 3 (commencing with Section 6201) of this part as of the time the property is first used by him, and, except as provided in subdivisions (b), (c), and (d) of this section, the sales price of the property to him shall be the measure of the tax.

(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased

or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.

(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.

(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be revoked with respect to the equipment as to which it is made.

SEC. 10. Section 6244 of the Revenue and Taxation Code is amended to read:

6244. (a) If a purchaser who gives a resale certificate or purchases property for the purpose of reselling it makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.

(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.

(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be revoked with respect to the equipment as to which it is made.

SEC. 11. Section 6357.1 of the Revenue and Taxation Code is amended to read:

6357.1. The Controller shall collect the use tax with respect to the

storage, use, or other consumption of, motor vehicle fuel when that fuel is subject to tax and refund under Part 2 (commencing with Section 7301) of this division, unless the claimant establishes to the satisfaction of the Controller that the claimant acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid sales tax to the board or as to which the claimant has paid use tax measured by the sale price of the fuel to him. The collection shall be made by way of deduction from the refunds otherwise allowable under that part. He shall transfer the amount of the deductions to the Retail Sales Tax Fund.

SEC. 12. Section 6357.2 of the Revenue and Taxation Code is amended to read:

6357.2. If the claimant establishes to the satisfaction of the Controller that he acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid sales tax to the board or as to which the claimant has paid use tax measured by the sale price of the fuel to him, including the amount of tax imposed by Part 2 (commencing with Section 7301) of this division, the Controller shall repay to the claimant the amount of separately stated sales tax included in the sale price of the fuel or use tax paid with respect to the amount of the motor vehicle fuel license tax refunded. If the buyer receives a refund under this section, no refund shall be made to the seller.

SEC. 13. Section 6401 of the Revenue and Taxation Code is amended to read:

6401. The storage, use, or other consumption in this state of property, the gross receipts from the sale of which the purchaser establishes to the satisfaction of the board were included in the measure of the sales tax, is exempted from the use tax; provided, however, that this exemption does not extend to the possession of, or the exercise of any right or power over, tangible personal property by a lessee under a lease.

SEC. 14. Section 6903 of the Revenue and Taxation Code is amended to read:

6903. No credit or refund of any amount paid pursuant to Chapter 3 of this part shall be allowed to any person on the ground that the storage, use, or other consumption of the property is exempted under Section 6401 unless the person establishes to the satisfaction of the board that his vendor has paid the sales tax to the state with respect to the sale of the property.

SEC. 15. Section 7204.5 of the Revenue and Taxation Code is amended to read:

7204.5. The Controller shall deduct local use tax with respect to the storage, use or other consumption of motor vehicle fuel when that fuel is subject to tax and refund pursuant to Part 2 (commencing with Section 7301) of this division, unless the claimant establishes to the satisfaction of the Controller that the claimant acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid local sales tax or as to which the claimant has paid local use tax measured by the sale price of the fuel to him.

SEC. 16. Section 7204.6 of the Revenue and Taxation Code is amended to read:

7204.6. If the claimant establishes to the satisfaction of the Controller that he acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid the sales tax or as to which the claimant has paid local use tax measured by the sale price of the fuel to him, including the amount of the tax imposed by Part 2 (commencing with Section 7301) of this division, the Controller shall repay to the claimant the amount of separately stated local sales tax included on the sale price of the fuel or local use tax paid with respect to the amount of the motor vehicle fuel license tax refunded. If the buyer receives a refund under this section, no refund shall be made to the seller.

SEC. 17. Section 7264 of the Revenue and Taxation Code is amended to read:

7264. The Controller shall deduct district use tax with respect to the storage, use, or other consumption of motor vehicle fuel when that fuel is subject to tax and refund pursuant to Part 2 (commencing with Section 7301) of this division, unless the claimant establishes to the satisfaction of the Controller that the claimant acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid transactions tax or the claimant has paid district use tax measured by the sale price of the fuel to him.

SEC. 18. Section 7264.1 of the Revenue and Taxation Code is amended to read:

7264.1. If the claimant establishes to the satisfaction of the Controller that he acquired the fuel in a transaction that was a retail sale with respect to which the retailer paid transactions tax or the claimant has paid district use tax measured by the sale price of the fuel to him, including the amount of the tax imposed by Part 2 (commencing with Section 7301) of this division, the Controller shall repay to the claimant the amount of separately stated transactions tax included in the sales price of the fuel or district or use tax paid with respect to the amount of the motor vehicle fuel license tax refunded. If the buyer receives a refund under this section, no refund shall be made to the seller.

SEC. 19. The Legislature in adopting the Sales Tax Act in 1933 intended that the incidence of the sales tax be on the retailer. In Section 8 of Chapter 681 of the Statutes of 1941, the following statement appears: ". . . the Legislature hereby declares and reaffirms that the sales tax is not imposed on any purchaser of tangible personal property in this state, but is for the privilege of engaging in the business of selling such property." Notwithstanding such legislative intent and decisions of California courts holding that the incidence of the California sales tax is upon the retailer and not upon the purchaser, the United States Supreme Court in Diamond National Corp. v. State Board of Equalization, 47 L. Ed. 2d 780, and the Court of Appeals for the Ninth Circuit in United States of America v. State Board of Equalization, 536 F. 2d 294, held that for federal purposes the incidence of the California sales tax is on the

purchaser. This act provides for changes in the California Sales and Use Tax Law to make it clear that for both federal and state tax purposes the incidence of the California sales tax is upon the retailer for the privilege of selling tangible personal property at retail and is not upon the purchaser. This act is not intended to affect any litigation or claims for refund relating to taxable periods prior to the effective date hereof.

SEC. 20. It is the intent of the Legislature, if this bill and Senate Bill No. 1036 are both chaptered and amend Section 6006 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1036, that Section 6006 of the Revenue and Taxation Code, as amended by Section 1 of Senate Bill No. 1036 be further amended on the operative date of this act in the form set forth in Section 1.7 of this act to incorporate the changes in Section 6006 proposed by this bill. Therefore, Section 1.7 of this act shall become operative only if Senate Bill No. 1036 is chaptered before this bill and amends Section 6006, and in such case Section 1.7 of this act shall become operative on the operative date of this act and Section 1.5 of this act shall not become operative.

SEC. 21. It is the intent of the Legislature, if this bill and Senate Bill No. 1036 are both chaptered and amend Section 6010 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1036, that Section 6010 of the Revenue and Taxation Code, as amended by Section 2 of Senate Bill No. 1036 be further amended on the operative date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 6010 proposed by this bill. Therefore, Section 2.5 of this act shall become operative only if Senate Bill No. 1036 is chaptered before this bill and amends Section 6010, and in such case Section 2.5 of this act shall become operative on the operative date of this act and Section 2 of this act shall not become operative.

SEC. 22. Although the California sales tax law has uniformly been construed by the California Legislature, courts, and administrative agencies as imposing an excise tax upon the retailer and as imposing no legal obligation upon a purchaser, the law does not prevent the parties from contracting between themselves for collection by the retailer of reimbursement for the sales tax from his customer in order to obtain the benefit of a lower sales tax measure or income tax deduction of the sales tax reimbursement by the purchaser or for any other purpose. Most sales transactions involve small amounts of money, are oral, and do not disclose the parties' intention with respect to reimbursement for sales tax. Ascertainment of this intention is necessary to a determination of a proper measure of sales tax and for other purposes. Accordingly, the purpose of the Legislature in adding Section 1656.1 to the Civil Code is to create a rebuttable presumption as to the intention of the parties for use in the absence of evidence of other intention by those who have occasion to use this information.

CHAPTER 1212

An act to amend Section 52 of the Civil Code, relating to civil rights.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 52 of the Civil Code is amended to read:

52. (a) Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of sex, color, race, religion, ancestry, or national origin contrary to the provisions of Section 51 or 51.5 of this code, is liable for each and every such offense for the actual damages, and such amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars ($250), and such attorney's fees as may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5 of this code.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in such denial, is liable for each and every such offense for the actual damages, and ten thousand dollars ($10,000) in addition thereto, suffered by any person denied such right. In the case of multiple offenders, such ten-thousand-dollar ($10,000) fine shall be prorated between them.

(c) Whenever the Attorney General or any district attorney or city attorney has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights hereby secured, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General or any district attorney or city attorney may bring a civil action in the appropriate court by filing with it a complaint (1) signed by such officer (or in his or her absence the individual acting on behalf of such officer), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, or national origin, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in

such action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In such action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

CHAPTER 1213

An act to add Section 11017.5 to the Government Code, relating to state agencies.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 11017.5 is added to the Government Code, to read:

11017.5. When a statute is enacted establishing a new program or requiring interpretation pursuant to the Administrative Procedure Act, the state agency responsible for the program or regulatory action shall, six months after the operative date or the effective date of the statute, whichever is later, issue a clear and concise summary of actions taken to implement the statute to the author of the statute, the policy committees in each house of the Legislature that considered the statute and, if the statute has been considered by the fiscal committee of either house of the Legislature, to the Joint Legislative Budget Committee and to the fiscal committee of each house of the Legislature that considered the statute.

SEC. 2. The costs incurred by state agencies in complying with the provisions of this act shall be paid for from their normal operating budgets.

CHAPTER 1214

An act to amend Sections 69504 and 69506 of, and to repeal and add Section 69508 to, the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 69504 of the Education Code is amended to read:

69504. The provisions of this article apply to all need-based student grants that are funded by the state or a public postsecondary educational institution. Nothing in this article shall be construed as attempting to regulate the selection or awarding of scholarships to applicants by the state or a public postsecondary educational institution where the scholarships are funded and awarded pursuant to the terms of a private endowment, trust, or similar instrument.

SEC. 2. Section 69506 of the Education Code is amended to read:

69506. Notwithstanding any other provision of law, the Student Aid Commission or any public postsecondary educational institution shall not consider the income of an applicant's parents in the determination of an applicant's financial need if the applicant meets one of the following requirements:

(a) Has been determined to be self-supporting prior to June 30, 1977, according to the procedures of the California postsecondary educational institution from which he or she is currently receiving need-based, state-funded financial aid.

(b) Has not lived with either parent or received financial assistance exceeding six hundred dollars ($600) from either parent for three consecutive tax years prior to the academic period for which aid is requested, and has not been claimed as an income tax exemption for the same period of time by anyone other than self or spouse.

(c) Has been a ward of the court, in which case appropriate court documents shall be submitted.

(d) Is an orphan and not claimed as a tax dependent during the current tax year by any person other than self or spouse.

(e) Has been a part of an extremely adverse home situation which is documented and supported by school or responsible community personnel such as a minister or social worker, which situation has led to estrangement from the family under circumstances where the student has not received a contribution in cash or kind from his family for the preceding 12 months. Public postsecondary educational institutions and the Student Aid Commission shall develop a procedure to allow students to appeal decisions on whether the student has been part of an adverse home situation.

(f) Is 30 years of age or older, unless there is substantial evidence of parental support of such applicant.

Nothing in this section shall exempt any applicant from submitting parental income information pursuant to Section 69672, or from submitting such information solely because the applicant comes within the provisions of Section 211 of the Civil Code.

SEC. 3. Section 69508 of the Education Code is repealed.

SEC. 4. Section 69508 is added to the Education Code, to read:

69508. When federal regulations defining the financial

independence of students are altered, the Student Aid Commission shall as soon as possible report to the Legislature on what changes are necessary to conform this article to federal standards.

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

In order that standards to evaluate the financial need of applicants for need-based student grants funded by the state or a public postsecondary institution continue in effect without interruption, it is necessary that the provisions of this act take effect immediately.

CHAPTER 1215

An act to add Sections 69516 and 69546.5 to, the Education Code, relating to student aid.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 69516 is added to the Education Code, to read:

69516. (a) The Student Aid Commission in consultation with the California Postsecondary Education Commission shall develop procedures for annual review and adjustment, as appropriate, of the maximum award prescribed in Sections 69536 and 69538.

(b) By November 1 of each year the Student Aid Commission shall determine the appropriate adjustments for the awards for the succeeding fiscal year. The recommendation shall be reviewed for comment by the California Postsecondary Education Commission and shall be reported to the Department of Finance for approval and, if approved, shall be included in the Governor's Budget prepared pursuant to Section 12 of Article IV of the Constitution.

(c) In determining the appropriate adjustment for the maximum award at least the following factors shall be considered:

(1) The impact of inflation.

(2) The availability of financial aid from other sources for students who would qualify for the maximum award.

(3) Any changes in the level of educational support provided to students at public colleges and universities in California.

(4) The impact of proposed adjustments in the maximum award upon the utilization of public and private postsecondary educational institutions.

(d) This section shall become operative July 1, 1979.

SEC. 2. Section 69546.5 is added to the Education Code, to read:

69546.5. The Student Aid Commission shall distribute federal

state student incentive grant funds received which are in excess of amounts received in the 1978–1979 fiscal year according to the following formula:

(a) Fifty percent of the additional funds shall be used to adjust the maximum award prescribed in Sections 69536 and 69538 for new and renewal award winners receiving their initial award after July 1, 1979;

(b) Thirty-five percent shall be used to fund awards prescribed in subdivision (b) of Section 69532 which are in excess of the number of such awards authorized for the 1977–1978 fiscal year;

(c) Fifteen percent shall be used to fund awards prescribed in subdivision (c) of Section 69532 which are in excess of the number of such awards authorized for the 1977–1978 fiscal year.

The Student Aid Commission may recommend variations from such formula to the Department of Finance and to the Legislature if the number or amount of awards in one or more Cal Grant programs is sufficient to meet the needs of students eligible to participate. The Assembly Ways and Means Committee, the Senate Finance Committee, and the Department of Finance shall review such recommendation, and if it is approved by the Department of Finance, such recommendation shall be included in the Governor's Budget prepared pursuant to Section 12 of Article IV of the Constitution.

CHAPTER 1216

An act to amend Section 69532 of the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 69532 of the Education Code is amended to read:

69532. There shall be 23,062 new Cal Grant awards for first-time recipients for the 1977–1978 fiscal year, 23,812 new awards for first-time recipients for the 1978–1979 fiscal year, and 23,062 new awards for first-time recipients for each year thereafter, except that new scholarships in subdivision (a) in excess of 4.25 percent of the number of high school graduates of the previous fiscal year, in subdivision (b) in excess of 5,375, and in subdivision (c) in excess of 1,062 shall not be awarded unless there are federal student financial aids funds available to the Student Aid Commission in an amount necessary to fund such awards or unless the Legislature acts in the future to fund such awards. First priority for federal state student

incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal. Such grants shall be allocated as follows:

(a) 14,900 awards for the 1977–1978 fiscal year, and each fiscal year thereafter, to be utilized for tuition and student fees pursuant to Section 69536.

(b) 6,825 awards for the 1977–1978 fiscal year, 7,575 awards for the 1978–1979 fiscal year, and 6,825 awards for each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 69538. The 750 new awards created for the 1978–1979 fiscal year shall only be renewed in subsequent years if additional federal funds are available to cover the cost of such renewals.

(c) 1,337 awards for the 1977–1978 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Sections 69539 through 69543.

SEC. 2. The sum of six hundred two thousand one hundred forty-two dollars ($602,142) is hereby appropriated from the General Fund to the Student Aid Commission for the 1978–79 fiscal year for the purpose of carrying out his act.

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

In order that an additional 750 low-income students are provided financial assistance to enter postsecondary education in the 1978–1979 school year, it is necessary that this act take effect immediately.

CHAPTER 1217

An act to add Chapter 3 (commencing with Section 99150) to Part 65 of the Education Code, and to amend Section 6254 of the Government Code, relating to postsecondary education.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Legislature finds and declares that:

(a) Because standardized tests often play a major role in the admission, placement, and evaluation of students at all levels of our educational system, students, parents, and the general public have the right to know and to understand the nature, purposes, limitations, uses and potentials of all kinds and types of standardized tests and test procedures.

(b) Standardized tests cannot measure with absolute precision every attribute pertinent to success in postsecondary education. As

such, they have the potential of narrow interpretation and misuse.

(c) Since various ethnic, regional, racial, and economic groups may not test equally well on standardized tests, and since these tests play an important role in determining students' personal and professional lives, careful consideration should be given to the effects which standardized tests have upon the accessibility of equal educational opportunities to all segments of the population.

(d) It is in the public interest to insure the maintenance of high standards of quality in the development, administration, and interpretation of standardized tests.

It is, therefore, the intent of the Legislature in enacting this chapter to make test subjects and persons who use such test results more fully aware of the characteristics, uses, limitations, and potential misuses of tests in education, to make available to the public appropriate information regarding the policies, operations, and fee structure of the limited number of organizations that develop and administer standardized tests, and to allow students, educators and public officials to scrutinize the production and administration of standardized tests.

SEC. 2. Chapter 3 (commencing with Section 99150) is added to Part 65 of the Education Code, to read:

CHAPTER 3. STANDARDIZED TESTS

99150. As used in this chapter:

(a) "Admissions data assembly service" means any summary or report of grades, grade point averages, or standardized test scores of an applicant used by any postsecondary educational institution in its admissions process.

(b) "Commission" means the California Postsecondary Education Commission.

(c) "Secure test" means any test which contains items not available to the public and which, to allow the further use of test items and to protect the validity and reliability of the test, is subject to special security procedures in its publication, distribution, and administration.

(d) "Standardized test" or "test", for purposes of this chapter, means any test administered in California to at least 3,000 individuals during a testing year and which is formally required by institutions of postsecondary education for the purposes of admissions to those institutions.

"Standardized test" or "test" does not include a test, or part of a test, which is administered to a selected group of individuals solely for research, pre-test, guidance, counseling, or placement purposes, for credit-by-examination purposes, or for purposes of meeting graduation requirements of secondary schools. Tests which are administered as supplements or auxiliaries to another test, or which form a specialized component of a test, may be combined for the purposes of this chapter.

(e) "Test subject" means an individual to whom a standardized test is administered and who takes the test at a location in the State of California.

(f) "Test sponsor" means an individual, partnership, corporation, association, company, firm, institution, society, trust, or joint stock company which sponsors a standardized test.

(g) "Testing year" means the 12 calendar months which the test sponsor considers either its operational cycle or its fiscal year.

99151. Each test sponsor shall report the closing date of its testing year to the commission by March 31, 1979, or within 90 days after it first becomes a test sponsor, whichever is later.

Each test sponsor shall report any change in the closing date of its testing year within 90 days after the change is made.

99152. Within 90 days of the close of each testing year, the test sponsor shall file in the office of the commission five copies of the test which is equivalent to that in use in any of the prior three testing years, but that is no longer in use as a secure test, along with the corresponding acceptable answers.

If such a test is not available, then the test sponsor shall file instead a set of test questions which are not derived from a secure test and which are equivalent in content and of sufficient number to represent the secure test fairly, along with corresponding acceptable answers.

99153. (a) Within 90 days of the close of each testing year, the test sponsor shall file in the office of the commission standard technical data sufficient to describe the psychometric quality of the test.

For purposes of compliance with this section, it is sufficient to deposit with the commission information conforming to the guidelines specified in the Standards for Educational and Psychological Tests of the American Psychological Association, which were in effect 180 days prior to the testing year, and which are appropriate to the particular test and its uses.

(b) Data, reports or other documents submitted pursuant to this section shall be accompanied by a description of the test, including, but not limited to, the title, purpose or purposes of the test and, when and where the test was administered in the state.

(c) No data, reports or other documents submitted pursuant to this chapter shall contain information in a form identifiable with individuals or particular postsecondary educational institutions.

99154. (a) Within 135 days after the close of the testing year, each test sponsor shall report the following data on test takings, wherever they may occur, to the commission:

(1) The total number of times the test was taken during the testing year.

(2) The number of individuals who have taken the test once, who have taken it twice, and who have taken it more than twice during the testing year.

(3) The number of individuals who registered for, but did not take, the test.

(4) The total amount of fees received from test-takers by the test sponsor for the test for that testing year.

(5) The expenses to the test sponsor of the test, as follows:

(A) Those expenses which are directly attributable to the test.

(B) Those expenses which are indirectly attributable to the test. However, if the test sponsor also sponsors another test or related activities, it shall be sufficient for compliance with provisions of this section for the test sponsor to list indirectly attributable expenses, to the extent that they are identifiable, as they are proportionately related to the test. The test sponsor shall also list expenses indirectly attributable to all activities of the test's sponsor, including expenses not identifiable as attributable to a test.

(b) The financial disclosure required by this section shall be submitted in sufficient detail to indicate the major categories of revenues and expenses associated with the test. Except as provided in this section, the information for different tests administered by the same test sponsor shall be reported separately and by individual test.

99155. If a separate fee is charged test subjects for admissions data assembly services, then the test sponsor shall report information concerning the data assembly services in substantially the same form as would be required for a test under Section 99154.

99156. Any information or report required to be made or filed with the commission under this chapter is a public record subject to disclosure under the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

Nothing in this section shall be construed to diminish or authorize the infringement of any rights protected by laws relating to copyright, to the protection of trade secrets, or to other proprietary rights.

99157. Each test sponsor shall provide the following information to test subjects prior to the administration of a test:

(a) The purposes for which the test is constructed and is intended to be used.

(b) The subject matters included on such test and the knowledge and skills which the test purports to measure.

(c) The manner in which the test is scored and the relationship of the raw and scaled scores to the skills and knowledge it measures.

(d) The basis upon which such scores will be made available to persons or institutions.

(e) A representative set of sample test items.

99158. In reporting test scores to test subjects, the test sponsor shall provide sufficient explanatory information to facilitate proper interpretation of the score or scores. The information shall be distributed in the following manner:

(a) Test subjects shall be provided with statements designed to provide information for interpreting the scores, including, but not limited to, explanations of:

(1) The test score scale.

(2) The scores and their meanings.

(3) Standard error of measurement of the test.

(b) Any postsecondary education institution or other organization which a test subject designates as a test score recipient shall be provided with all of the information specified in Section 99157 and in subdivision (a) of this section. The test sponsor shall provide such information prior to or coincident with the first reporting of a test score or scores to a recipient during a testing year. Such information shall be provided to the commission prior to or coincident with the first reporting of test scores to any test score recipient during a testing year.

The test sponsor shall provide such information once during a testing year in a manner deemed sufficient to assure access to the information by interested parties.

99159. (a) In addition to the information required pursuant to subdivision (b) of Section 99158, the test sponsor shall submit to the parties listed therein and to the commission the test sponsor's most recent national or regional aggregation of data concerning the predictive validity of:

(1) Academic record or grades alone.

(2) Standardized test score alone.

(3) Academic record and test score combined.

(b) The data shall be disseminated pursuant to subdivision (b) of Section 99158.

99160. Any test sponsor who intentionally violates any provision of this chapter shall be liable for a civil penalty not to exceed seven hundred fifty dollars ($750) for each violation.

SEC. 3. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that local police agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the persons involved in an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage as the result of the incident caused by arson, burglary, fire, explosion, robbery, vandalism, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, disclosure would endanger the successful completion of the investigation or a related investigation;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes;

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter;

(m) In the custody or maintained by the Legislative Counsel;

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for; and

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 4. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan

associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that local police agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the persons involved in an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage as the result of the incident caused by arson, burglary, fire, explosion, robbery, vandalism, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, disclosure would endanger the successful completion of the investigation or a related investigation;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the

disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes;

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter;

(m) In the custody or maintained by the Legislative Counsel;

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for; and

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of the University of California, Hastings College of the Law, and the California State University and Colleges prepared for or during collective bargaining sessions, or minutes of such sessions.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 1091 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 6254 of the Government Code, and this bill is chaptered after Assembly Bill No. 1091, that Section 6254 of the Government Code, as amended by Section 3 of this act, shall remain operative until the operative date of Assembly Bill No. 1091, and that on the operative date of Assembly Bill No. 1091 Section 6254 of the Government Code, as amended by Section 3 of this act, be further amended in the form set forth in Section 4 of this act to incorporate the changes in Section 6254 proposed by Assembly Bill No. 1091. Therefore, if this bill and Assembly Bill No. 1091 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No. 1091 is chaptered before this bill and amends

Section 6254, Section 4 of this act shall become operative on the operative date of Assembly Bill No. 1091.

SEC. 6. It is the intent of the Legislature that the information disclosure requirements of this act be applicable to the entire testing year ending in 1979.

CHAPTER 1218

An act to amend Section 4019 of the Penal Code, relating to term of imprisonment.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 4019 of the Penal Code is amended to read:

4019. (a) The provisions of this section shall apply in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp, or any city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date on which the serving of the sentence commences, under a judgment of imprisonment, or a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp or any city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence, in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to the county jail, industrial farm, or road camp or any city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding, other than a criminal action or proceeding.

(b) Subject to the provisions of subdivision (d), for each six-day period in which a prisoner is committed to a facility as specified in this section, one day shall be deducted from his period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each six-day period in which a prisoner is committed to a facility as specified in this section, one day shall be deducted from his period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) Nothing in this section shall be construed to require the sheriff, chief of police, or superintendent of an industrial farm or road camp

to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of any industrial farm or road camp.

(e) No deduction may be made under this section unless the person is committed for a period of six days or longer.

CHAPTER 1219

An act to add Sections 3534.5 and 3569.5 to the Government Code, relating to state employees.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 3534.5 is added to the Government Code, to read:

3534.5. (a) The state shall allow up to three employee representatives from each employee organization which represents employees of the California State University and Colleges reasonable time off during work hours without loss of compensation or other benefits to attend and make oral presentations at meetings of the Trustees of the California State University and Colleges, or a committee thereof, held during the working hours of such employees, if a matter affecting conditions of employment is scheduled for consideration.

(b) Any employee organization wishing to send employee representatives to make oral presentations at such a meeting shall submit a request to the trustees far enough in advance to permit scheduling of speakers pursuant to rules and regulations of the trustees. Each employee organization shall be limited to not more than three speakers at any such meeting.

(c) Only employee representatives who are named in the request submitted to the trustees as employee representatives who will make an oral presentation, and who intend to make an oral presentation, shall be allowed time off as specified in subdivision (a). Other employees may attend such meetings by taking vacation time, compensating time off, or time off without pay if the workload permits, when approved by their supervisor.

(d) Nothing in this section shall preclude the trustees from adopting rules and regulations relating to time off for employees not represented by an employee organization to attend such meetings.

(e) As used in this section, "employee organization" shall mean any employee organization defined in subdivision (a) of Section 3526 which is a bona fide statewide recognized employee organization

entitled to receive deductions from the salaries or wages of its members for dues in the organization.

SEC. 2. Section 3569.5 is added to the Government Code, to read:

3569.5. (a) The state shall allow up to three employee representatives from each employee organization which represents employees of the California State University and Colleges reasonable time off during working hours without loss of compensation or other benefits, to attend and make oral presentations at meetings of the Trustees of the California State University and Colleges, or a committee thereof, held during working hours of such employees, if a matter affecting conditions of employment is scheduled for consideration.

(b) Any employee organization wishing to send employee representatives to make oral presentations at such a meeting shall submit a request to the trustees far enough in advance to permit scheduling of speakers pursuant to rules and regulations of the trustees. Each employee organization shall be limited to not more than three speakers at any such meeting.

(c) Only employee representatives who are named in the request submitted to the trustees as employee representatives who will make an oral presentation, and who intend to make an oral presentation, shall be allowed time off as specified in subdivision (a). Other employees may attend such meetings by taking vacation time, compensating time off, or time off without pay if the workload permits, when approved by their supervisor.

(d) Nothing in this section shall preclude the trustees from adopting rules and regulations relating to time off for employees not represented by an employee organization to attend such meetings.

(e) Any provision of a negotiated collective-bargaining agreement in conflict with the provisions of this section shall be controlling.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 1091 are both chaptered and become effective January 1, 1979, that the addition of Section 3569.5 proposed by this bill be given effect and incorporated in Section 3569.5 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 1091 are both chaptered and become effective January 1, 1979, in which case Section 1 of this act shall not become operative.

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CHAPTER 1220

An act to amend Sections 56615 and 56700 of, to add Sections 49423.5, 56135, 56314.5, 56521.5, 56600.1, 56600.2, 56600.3, and 56709.5 to, and to repeal Sections 56602, 56603, and 56607 of, the Education Code, relating to schools.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. The Legislature, in Chapter 1247, Statutes of 1977, declared that all school age individuals with exceptional needs have a right to participate in appropriate programs of publicly supported education, and that special educational programs and services for these persons are needed in order to assure them of this right to an appropriate educational opportunity.

In order to meet this intent, and the requirements of Public Law 94-142, the federal Education for All Handicapped Children Act of 1975; the requirements of Public Law 93-112, the federal Rehabilitation Act of 1973; and other provisions of state law; the Legislature further finds and declares that specialized physical health care services must be authorized in order to permit such services to be provided for physically and severely handicapped pupils within the framework of California's public educational system.

SEC. 2. Section 49423.5 is added to the Education Code, to read:

49423.5. (a) Notwithstanding the provisions of Section 49422, any individual with exceptional needs who requires specialized physical health care services, during the regular schoolday, may be assisted by the following individuals:

(1) Qualified persons who possess an appropriate credential issued pursuant to Section 44267, or hold a valid certificate of public health nursing issued by the State Department of Health Services; or

(2) Qualified designated school personnel trained in the administration of specialized physical health care provided they perform such services under the supervision of a school nurse, public health nurse, or licensed physician and surgeon.

(b) Specialized health care or other services that require medically related training shall be provided pursuant to the procedures prescribed by Section 49423.

(c) Persons providing specialized physical health care services shall also demonstrate competence in basic cardiopulmonary resuscitation and shall be knowledgeable of the emergency medical resources available in the community in which the services are performed.

(d) "Specialized physical health care services" as used in this section include catheterization, gavage feeding, suctioning, or other services that require medically related training.

(e) Regulations necessary to implement the provisions of this section shall be developed jointly by the State Department of Education and the State Department of Health Services, and adopted by the State Board of Education.

SEC. 3. Section 56135 is added to the Education Code, to read:

56135. The State Board of Education shall adopt rules and

regulations to assure that a parent of an individual with exceptional needs, as defined by regulations adopted pursuant to Public Law 94-142, has full access rights to any education records relating to his or her child.

SEC. 4. Section 56314.5 is added to the Education Code, to read:

56314.5. A county superintendent of schools, maintaining schools in juvenile halls or juvenile homes, ranches or camps as authorized by the Welfare and Institutions Code, shall provide for special educational programs, authorized by this chapter, for individuals with exceptional needs.

SEC. 5. Section 56521.5 is added to the Education Code, to read:

56521.5. A county superintendent of schools, maintaining schools in juvenile halls or juvenile homes, ranches or camps as authorized by the Welfare and Institutions Code, shall provide for the special educational programs for mentally retarded pupils authorized by this chapter.

SEC. 6. Section 56600.1 is added to the Education Code, to read:

56600.1. (a) The governing board of any school district shall provide for the special educational programs for educationally handicapped pupils authorized in this chapter.

(b) A county superintendent of schools, maintaining schools in juvenile halls or juvenile homes, ranches, or camps as authorized by the Welfare and Institutions Code, shall provide for the special educational programs for educationally handicapped pupils authorized in this chapter.

(c) A county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having less than 901 average daily attendance in the elementary schools or less than 901 in the high schools of the district to provide any one or more of such special educational programs for the district, or the county superintendent of schools may enter into an agreement pursuant to Section 56608 with the governing board of a school district having an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high schools of the district which are set forth in subdivision (a), (c), or (d), or any combination thereof in Section 56600.2. Whenever a special educational program for educationally handicapped pupils set forth in subdivision (a) or (d) of Section 56600.2 is provided by a county superintendent of schools for a district with an average daily attendance of 901 or more in the elementary schools of the district or 901 or more in the high schools of the district, pursuant to an agreement entered into pursuant to Section 56608, the foundation program prescribed in Section 41704 for an elementary district with an average daily attendance of 901 or more shall apply to educationally handicapped pupils of the elementary schools of the district who are in such a special educational program and the foundation program prescribed in Section 41712 shall apply to educationally handicapped pupils of the high schools of the district who are in such a special educational program.

Such special educational programs shall be provided in accordance with standards for each approved by the State Board of Education. Such standards shall emphasize fundamental school subjects with the aim of returning the pupils to the regular school program at the earliest possible date consistent with the interest of the pupil.

SEC. 7. Section 56600.2 is added to the Education Code, to read:

56600.2. The special educational programs for educationally handicapped pupils are:

(a) Special day classes (elementary and secondary). Under this program, educationally handicapped pupils unable to function in a regular class are assigned to a special day class. The special day class shall be maintained for not less than the minimum schoolday. In this program, fundamental school subjects shall be emphasized as prescribed by the State Board of Education.

(b) Learning disability groups (elementary and secondary). In this program, the pupil remains in his regular class but is scheduled for individual or small group instruction given by a special teacher. Whenever one to four educationally handicapped pupils are instructed at the same time by the same teacher in a learning disability group conducted by a school district or county superintendent of schools, the total attendance credited for such pupils shall equal one unit of attendance for each 60 minutes for instruction.

(c) Specialized consultation to teachers, counselors, and supervisors (elementary and secondary). Under this program, specialized consultation is provided teachers, counselors, and supervisors relative to the learning disabilities of individual pupils and special education services required by such pupils.

(d) Home and hospital instruction (elementary and secondary). Under this program, a pupil who is unable to function in a school setting and who does not attend school receives instruction at the appropriate grade level at home or in a hospital.

(e) Regular class instruction. Under this program, whenever the number of educationally handicapped pupils is less than six in each of one or more schools of a district or schools served by a county superintendent and the distance between any school also having educationally handicapped pupils is excessive, prohibiting the reasonable transportation of pupils, such pupils may be instructed in the regular classes of the district or county with prior approval of the Superintendent of Public Instruction, providing an instructional aide is employed in each such regular class for the regular schoolday, and that supervision of the instructional program for educationally handicapped pupils is provided by a credentialed person having expertise and experience in teaching the educationally handicapped. School districts providing regular class instruction for educationally handicapped pupils under this subdivision shall be qualified for the individual apportionment under subdivision (i) of Section 41888.

(f) Private school services for exceptional children under the provisions of Sections 56031 through 56038.

SEC. 8. Section 56600.3 is added to the Education Code, to read:

56600.3. The maximum size for the special educational programs for educationally handicapped pupils defined in Sections 56600.2 and 56601 shall be as follows:

(a) For special day classes the maximum enrollment shall be 12 pupils per class.

If after the beginning of the school year it is determined that classes are at a maximum size, that additional pupils will be without schooling unless additional classes are established, and that additional qualified teachers are not available for employment, a school district or a county superintendent of schools may, on forms provided for this purpose by the Department of Education, request permission of the Superintendent of Public Instruction to exceed the maximum class size for all or part of the remainder of the school year. The Superintendent of Public Instruction may approve such request for all or a part of the remainder of the school year, provided the maximum size is not increased by more than two pupils above the maximum enrollment specified.

(b) For classes for autistic pupils, as defined by the Superintendent of Public Instruction, conducted by a school district or county superintendent of schools, the maximum class size shall be six pupils. The maximum class size prescribed herein may be exceeded upon a determination by the Superintendent of Public Instruction that to do so is in the best interests of the pupils and of the school district or county superintendent of schools maintaining such classes.

(c) For learning disability groups the maximum enrollment shall be 32; however, participation in any given learning disability group shall be for at least 30 minutes and shall not exceed eight pupils at any one time.

The instruction provided by a full-time teacher, whether offered by a single teacher or two or more part-time teachers, shall result in not more than eight units of average daily attendance being credited as the result of such instruction.

SEC. 9. Section 56602 of the Education Code is repealed.

SEC. 10. Section 56603 of the Education Code is repealed.

SEC. 11. Section 56607 of the Education Code is repealed.

SEC. 12. Section 56615 of the Education Code, as amended by Chapter 402 of the Statutes of 1978, is amended, to read:

56615. The State Board of Education shall adopt rules and regulations which shall prescribe standards for special educational programs for educationally handicapped pupils which shall include, but need not be limited to, individual evaluation of pupils and curriculum content for each type of program authorized pursuant to this chapter, and provisions for periodic examination, reevaluation, or transfer of educationally handicapped pupils participating in special educational programs maintained for each type of program authorized under the provisions of this chapter.

The Commission for Teacher Preparation and Licensing shall

adopt rules and regulations which prescribe standards for teacher qualifications for each type of program authorized pursuant to this chapter.

No person shall be employed as a teacher of educationally handicapped pupils who does not hold a valid credential for the education of educationally handicapped children. However, a person holding some other valid credential authorizing substitute teaching may serve for not more than 20 schooldays in any school year as a substitute teacher replacing a regular teacher absent from service pursuant to Section 44964 for the instruction of pupils in a special day class, a learning disability group, home or hospital, or a class for autistic pupils, pursuant to Sections 56600.2 and 56601.

Upon application by the school district or county superintendent of schools, the Superintendent of Public Instruction may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which the application is submitted.

SEC. 13. Section 56700 of the Education Code is amended to read:

56700. Subject to the provisions of this article and Section 1850, the governing board of any school district shall provide for the special educational programs for physically handicapped pupils authorized in this chapter. "Physically handicapped pupil," as used in this article means a physically defective or handicapped person under the age of 21 years who is in need of education.

SEC. 14. Section 56709.5 is added to the Education Code, to read:

56709.5. A county superintendent of schools, maintaining schools in juvenile halls or juvenile homes, ranches or camps as authorized by the Welfare and Institutions Code, shall provide for the special educational programs for physically handicapped pupils authorized by this chapter.

SEC. 15. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because this act merely affirms for the state that which has been declared existing law or regulation through action by the federal government.

CHAPTER 1221

An act to amend Sections 1250 and 1250.1 of, and to add Section 1253.1 to, the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: 24-hour care to residents who have a recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in rehabilitation, dentistry, or maternity.

SEC. 1.5. Section 1250 of the Health and Safety Code, as amended by Section 1 of this act, is amended to read:

1250. As used in this chapter "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: 24-hour care to residents who have a recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(f) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

SEC. 2. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

(a) General acute care,

(b) Skilled nursing,

(c) Intermediate care-developmental disabilities,

(d) Intermediate care-other,

(e) Acute psychiatric,

(f) Specialized care, with respect to special hospitals only.

Except as provided in Section 1253.1, beds classified as

intermediate care beds, on the effective date of the 1978 Regular Session statute which amends this section, shall be reclassified by the state department as intermediate care-other. Such reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care-other classification unless and until amended or repealed by the state department.

SEC. 2.5. Section 1250.1 of the Health and Safety Code, as amended by Section 2 of this act, is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

(a) General acute care,

(b) General acute care rehabilitation,

(c) Skilled nursing,

(d) Intermediate care-developmental disabilities,

(e) Intermediate care-other,

(f) Acute psychiatric,

(g) Specialized care, with respect to special hospitals only.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on the effective date of the 1978 Regular Session statute which amends this section, shall be reclassified by the state department as intermediate care-other. Such reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care-other classification unless and until amended or repealed by the state department.

SEC. 3. Section 1253.1 is added to the Health and Safety Code, to read:

1253.1. (a) Any skilled nursing facility or intermediate care facility which on the effective date of this section is providing care for the developmentally disabled may utilize beds designated for such purpose to provide intermediate care for the developmentally disabled without obtaining a certificate of need, a change in licensure category, or a change in bed classification pursuant to subdivision (c) of Section 1250.1, provided the facility meets and continues to meet the following criteria:

(1) The facility was surveyed on or before July 18, 1977, by the State Department of Health for certification under the federal ICF/MR program pursuant to Section 449.13 of Title 42 of the Code of Federal Regulations, and the beds designated for intermediate care for the developmentally disabled were certified by the state department, either before or after such date, to meet the standards set forth in Section 449.13 of Title 42 of the Code of Federal

Regulations.

(2) Not less than 95 percent of the beds so certified for intermediate care for the developmentally disabled are utilized exclusively for provision of care to residents with a developmental disability, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code. Nothing in this paragraph shall require continuous bed occupancy, but a bed certified for intermediate care for the developmentally disabled shall be deemed to be converted to another use if occupied by a resident who is not developmentally disabled.

(3) On and after effective date of regulations implementing this section, no change of ownership has occurred with respect to the facility requiring issuance of a new license, except a change occurring because of a decrease in the number of partners of a licensed partnership or a reorganization of the governing structure of a licensee in which there is no change in the relative ownership interests.

(b) Any facility receiving an exemption under subdivision (a) shall, with respect to beds designated for intermediate care for the developmentally disabled, be subject to regulations of the state department applicable to such level of care, rather than the level of care for which the beds are licensed. The state department shall indicate on the license of any facility receiving an exemption pursuant to subdivision (a) that the licensee has been determined by the state department to meet the criteria of subdivision (a).

(c) The licensee of any facility receiving an exemption under this section, shall notify the state department not less than 30 days prior to taking action which will cause the facility to cease meeting the criteria specified in paragraph (2) or (3) of subdivision (a).

(d) Upon a change of ownership of the facility or change in ownership interests not meeting the criterion for continued exemption specified in paragraph (3) of subdivision (a), the applicant for relicensure shall elect as follows:

(1) To reclassify all skilled nursing beds which have been exempted under this section to the intermediate care-developmental disabilities classification, or to continue the skilled nursing classification with respect to skilled nursing beds which have received such exemption.

(2) To reclassify intermediate care beds which have been exempted under this section to the intermediate care-developmental disabilities classification, or to reclassify intermediate care beds which have received such an exemption to the intermediate care-other classification.

Reclassification of beds pursuant to this subdivision shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 2540 are both chaptered and become effective on or before

January 1, 1979, both bills amend Section 1250 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 2540, that Section 1250 of the Health and Safety Code, as amended by Section 1 of this act shall remain operative only until January 1, 1979, and that on January 1, 1979, Section 1250 of the Health and Safety Code as amended by Section 1 of this act be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 1250 proposed by Assembly Bill No. 2540. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 2540 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250, and this bill is chaptered after Assembly Bill No. 2540, in which case Section 1.5 of this act shall become operative on January 1, 1979.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 2540 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250.1 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 2540, that Section 1250.1 of the Health and Safety Code, as amended by Section 2 of this act shall remain operative only until January 1, 1979, and that on January 1, 1979, Section 1250.1 of the Health and Safety Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 1250.1 proposed by Assembly Bill No. 2540. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 2540 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250.1, and this bill is chaptered after Assembly Bill No. 2540, in which case Section 2.5 of this act shall become operative on January 1, 1979.

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

This act requires establishment of special standards of intermediate care for the developmentally disabled. Implementation of a special level of intermediate care for the developmentally disabled is necessary to avoid possible loss of federal financial assistance under the ICF/MR program. State implementation of such program will necessitate changes in bed classification or licensure of existing facilities. In order to enable facilities currently serving such population to continue without requiring the affected licensees to make irreversible commitments under the health planning laws, which many of such facilities are unwilling, or because of contractual obligations are unable, to make, and in order to avoid any consequent reduction in facilities available to provide intermediate care to the developmentally disabled, it is necessary that this act go into immediate effect.

CHAPTER 1222

An act to amend Section 6506 of, and to add Section 6510 to, the Labor Code, relating to occupational safety and health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 6506 of the Labor Code is amended to read:

6506. (a) Any employer denied a permit upon application, or whose permit is revoked, may appeal such denial or revocation to the director.

(b) The filing of an appeal to the director from a permit revocation by the division shall not stay the revocation. Upon application by the employer with proper notice to the division, and after an opportunity for the division to respond to the application, the director may issue an order staying the revocation while the appeal is pending.

SEC. 2. Section 6510 is added to the Labor Code, to read:

6510. (a) If, after inspection or investigation, the division finds that an employer, without a valid permit, is engaging in activity for which a permit is required, it may, through its attorneys, apply to the superior court of the county in which such activity is taking place for an injunction restraining such activity.

(b) The application to the superior court, accompanied by an affidavit showing that the employer, without a valid permit, is engaging in activity for which a permit is required, is a sufficient prima facie showing to warrant, in the discretion of the court, the immediate granting of a temporary restraining order. No bond shall be required of the division as a prerequisite to the granting of any restraining order.

CHAPTER 1223

An act to amend Sections 7314 and 7721 of the Labor Code, relating to elevator, tank, and boiler inspections.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 7314 of the Labor Code is amended to read:

7314. The division may fix and collect such fees for the inspection of elevators as it deems necessary. Until January 1, 1981, the charge for the first inspection of each new elevator installation shall not

exceed one hundred dollars ($100) or seventy-five dollars ($75) for each inspection of existing elevators or subsequent inspections of new elevator installations. On and after January 1, 1981, such charges shall not exceed sixty dollars ($60) or forty dollars ($40). No charge shall be made in any one year for more than one inspection except where safety orders have not been complied with and subsequent inspections are necessary. Until January 1, 1981, an additional fee not to exceed seventy-five dollars ($75) may, in the discretion of the division, be charged, for not more than one subsequent inspection annually. On and after January 1, 1981, such charge shall not exceed forty dollars ($40).

SEC. 2. Section 7721 of the Labor Code is amended to read:

7721. (1) The division may fix and collect fees for the shop inspection of tanks, boilers, and parts of tanks and boilers. Said fees shall be fixed in accordance with the size of the tank, the time required to make the inspection and the quantities so inspected. Until January 1, 1981, such fees shall not in any event exceed twenty-five dollars ($25) per hour for nonnuclear shops and thirty dollars ($30) per hour for nuclear shops. On and after January 1, 1981, such fees shall not in any event exceed twenty dollars ($20) per hour.

(2) Until January 1, 1981, the fee schedule of a maximum of twenty-five dollars ($25) per hour for nonnuclear shops and thirty dollars ($30) per hour for nuclear shops shall be applicable to consultations, surveys, audits, and other activities required or related to national standards concerning the design or construction of boilers or pressure vessels or for evaluating fabricator's plant facilities when such services are requested of the division by entities desiring such services. On and after January 1, 1981, the fee schedule of a maximum of twenty dollars ($20) per hour shall be applicable to such services.

SEC. 3. The Legislative Analyst, in consultation with private industry, shall submit to the Legislature a report and his recommendations on the necessity and cost-effectiveness of the inspection function of the Division of Occupational Safety and Health Administration relating to elevators, tanks, and boilers, no later than January 1, 1980.

SEC. 4. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1224

An act to amend Section 6315 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 6315 of the Labor Code is amended to read:

6315. There shall be within the division a Bureau of Investigations. The bureau shall be responsible for directing accident investigations involving violations of standards, orders, or special orders, or Section 25910 of the Health and Safety Code, in which there is a serious injury to five or more employees, death, or request for prosecution by a division representative, and for preparing cases for prosecution, including evidence and findings.

(a) The supervisor of the bureau shall be the administrative chief of the bureau.

(b) The bureau shall be staffed by as many attorneys and investigators as are necessary to carry out the purposes of this chapter.

(c) The supervisor of the bureau and such investigators as are designated by him shall have a right of access to all places of employment necessary to the investigation, may collect any evidence or samples they deem necessary to an investigation, and shall have all of the powers enumerated in Section 6314.

(d) The supervisor and investigators of the bureau may serve all processes and notices throughout the state.

(e) In any case where the bureau is required to conduct an investigation, and in which there is a serious injury or death, the results of the investigation shall be referred by the bureau to the city attorney or district attorney having jurisdiction for appropriate action, unless the bureau determines that there is legally insufficient evidence of a violation of the law.

CHAPTER 1225

An act to amend Section 2101.6 of, and to add Section 2112 to, the Business and Professions Code, to amend Section 44877 of, and to add Chapter 3.2 (commencing with Section 44690) to Part 25 of Division 3 of Title 2 of the Education Code, to add Section 605 to the Health and Safety Code, and to add Section 13517 to the Penal Code, relating to child abuse and neglect.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. It is the intent of the Legislature that cases of child abuse and neglect be detected and treated as early as possible. Detection of child abuse and neglect requires specialized training by

the people who are likely to come into contact with such children. Therefore, it is the intent of the Legislature that professionals likely to come into contact with abused and neglected children receive adequate training in the detection, prevention, and treatment of child abuse and neglect.

SEC. 2. Section 2101.6 of the Business and Professions Code is amended to read:

2101.6. In order to insure the continuing competence of physicians and surgeons certificate holders under this chapter, the Division of Licensing shall by January 1, 1977, adopt and administer standards for continuing education of such certificate holders. The division shall require certificate holders to demonstrate satisfaction of the continuing education requirements at intervals of not less than four nor more than six years. In determining its requirements, the board shall consider including a course of nutrition and of human sexuality as defined in Section 2192.3, to be taken by persons in those forms of practice, general or special, where there is any likelihood, to be determined by the Division of Licensing, of related questions being asked of them.

The board shall also consider as a high priority in the continuing education requirements a course in child abuse detection and treatment to be taken by persons in those forms of practice, general or special, where there is likelihood, to be determined by the Division of Licensing, of coming into contact with abused and neglected children.

The board shall also develop educational material to aid such physicians in the detection and treatment of child abuse and neglect and require that these be distributed to every physician, surgeon and licensed general acute care hospital in the state.

SEC. 3. Section 2112 is added to the Business and Professions Code, to read:

2112. The board shall periodically develop and disseminate information regarding the detection and treatment of child abuse and neglect to all of the physician and surgeon certificate holders under this chapter. The board shall consult with the State Office of Child Abuse Prevention in developing the materials distributed pursuant to this section.

SEC. 4. Chapter 3.2 (commencing with Section 44690) is added to Part 25 of Division 3 of Title 2 of the Education Code, to read:

CHAPTER 3.2. STAFF DEVELOPMENT IN THE DETECTION OF CHILD ABUSE AND NEGLECT

44690. "School personnel" means all persons who work directly and on a regular basis with pupils, including teachers, administrators, pupil service employees defined in subdivision (e) of Section 33150, paraprofessionals and volunteers.

44691. The State Office of Child Abuse Prevention shall develop and disseminate information to all school districts and district school

personnel in California regarding the detection of child abuse. The information may be disseminated by the use of literature, as deemed suitable by the Department of Education. Staff development seminars and any other appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect, shall be developed by the Department of Education.

SEC. 5. Section 44877 of the Education Code is amended to read:

44877. The qualifications for a nurse shall be a valid certificate of registration issued by the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

On and after January 1, 1981, the qualifications for a nurse shall also include proof satisfactory to the school district that the nurse has acquired training in child abuse and neglect detection. This requirement may be satisfied through participation by the nurse in continuing education activities relating to child abuse and neglect detection and treatment.

SEC. 6. Section 605 is added to the Health and Safety Code, to read:

605. The qualifications prescribed by the state department under this chapter shall include a requirement that an applicant for employment as a public health nurse and all public health nurses employed on or after January 1, 1981, acquire training in child abuse and neglect detection.

SEC. 7. Section 13517 is added to the Penal Code, to read:

13517. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the detection, investigation, and response to cases in which a minor is a victim of an act of abuse or neglect prohibited by this code. The guidelines shall include procedures for determining whether or not a child should be taken into protective custody.

(b) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1979, include adequate instruction in the procedures described in subdivision (a).

(c) The commission shall prepare and implement an optional course of training of specialists in the investigation of cases in which a minor is a victim of an act of abuse or neglect prohibited by this code.

(d) The commission shall consult with the State Office of Child Abuse Prevention in developing the guidelines and optional course of training.

SEC. 8. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1226

An act to amend Sections 1250, 1250.1, 1254, 1255, 1260, 1268, and 1318 of the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not

require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(f) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

SEC. 1.5. Section 1250 of the Health and Safety Code, as amended by Assembly Bill No. 3677 is amended to read:

1250. As used in this chapter "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: 24-hour care to residents who have a recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(f) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

SEC. 2. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall, by regulation, define the following bed classifications for health facilities:

(a) General acute care.

(b) General acute care/rehabilitation.

(c) Skilled nursing.

(d) Intermediate care.

(e) Acute psychiatric.

(f) Specialized care, with respect to special hospitals only.

SEC. 2.5. Section 1250.1 of the Health and Safety Code, as amended by Assembly Bill No. 3677 is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

(a) General acute care,

(b) General acute care rehabilitation,

(c) Skilled nursing,

(d) Intermediate care-developmental disabilities,

(e) Intermediate care-other,

(f) Acute psychiatric,

(g) Specialized care, with respect to special hospitals only.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on the effective date of the 1978 Regular Session statute which amends this section, shall be reclassified by the state department as intermediate care-other. Such reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care-other classification unless and until amended or repealed by the state department.

SEC. 3. Section 1254 of the Health and Safety Code is amended to read:

1254. The state department shall inspect and license health

facilities. The state department shall license general acute care hospitals, general acute care/rehabilitation hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, and special hospitals to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital or a general acute care/rehabilitation hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 4. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hopsital may be approved in accordance with subdivision (b) of Section 1277 to offer special services including, but not limited to, the following:

(a) Radiation therapy department.
(b) Burn center.
(c) Emergency center.
(d) Hemodialysis center (or unit).
(e) Psychiatric.
(f) Intensive-care newborn nursery.
(g) Cardiac surgery.
(h) Renal transplant.
(i) Such other special services as the department may prescribe by regulation.

A general acute care/rehabilitation hospital may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section.

SEC. 5. Section 1260 of the Health and Safety Code is amended to read:

1260. (a) As used in this section, "nonprofit hospital" means a general acute care hospital, a general acute care/rehabilitation hospital, or an acute psychiatric hospital owned and operated by a fund, foundation, or corporation, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) A nonprofit hospital may exercise the right of eminent domain to acquire property necessary for the establishment, operation, or expansion of the nonprofit hospital if both of the following requirements are satisfied:

(1) The property to be acquired by eminent domain is adjacent to other property used or to be used for the establishment, operation, or expansion of the nonprofit hospital.

(2) The State Director of Health Services has certified, after the public hearing required by subdivision (c), that (i) the acquisition of the property sought to be condemned is necessary for the

establishment, operation, or expansion of the nonprofit hospital, (ii) the public interest and necessity require the proposed project, and (iii) the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The State Director of Health Services shall adopt reasonable regulations which will provide for a public hearing to be conducted by a hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code in the area where the hospital is located to determine the necessity of the proposed project and of any acquisition of property for the project. Written notice of the hearing shall be given to the voluntary area health planning agency, if one exists, in the area where the hospital is located. The voluntary area health planning agency so notified shall make its recommendations to the hearing officer within 90 days from the receipt of notice. No hearing shall be held prior to the expiration of such 90-day period unless the hearing officer has received the recommendations of the voluntary area health planning agency. At the public hearing, the hearing officer shall insure that the hearing, in part at least, considers the impact of the proposed project upon the delivery of health care services in the community and upon the environment, as gathered from an environmental impact report. The applicant and all interested parties to the acquisition, including the voluntary area health planning agency, have the right to representation by counsel, the right to present oral and written evidence, and the right to confront and cross-examine opposing witnesses. A transcript of the public hearing shall be filed with the State Department of Health Services as a public record.

SEC. 6. Section 1268 of the Health and Safety Code is amended to read:

1268. Upon the filing of the application for licensure or for a special permit for special services and full compliance with the provisions of this chapter and the rules and regulations of the state department, the state department shall issue to the applicant the license or special permit applied for. A license shall not be issued or renewed for beds permanently converted to other than patient use and which do not meet construction and operational requirements. However, if the director finds that the applicant is not in compliance with the laws or regulations of this part, he shall deny the applicant a license or a special permit for special services. Additionally, the director shall not issue a license covering a project within the meaning of Section 437.10 for which there is no valid, subsisting, and unexpired certificate of need issued pursuant to Part 1.5 (commencing with Section 437) of Division 1; provided that (1) a license and a certificate of exemption shall be issued for projects considered pursuant to Part 1.5, as it existed prior to the effective date of amendments to this section enacted during the 1976 portion of the 1975–76 Regular Session of the Legislature, for which there is

outstanding a valid and subsisting approval for the project; or (2) the voluntary area health planning agency failed to reach a decision on the project or act on the recommendation of the voluntary local health planning agency within the time prescribed; or (3) more than 12 months have expired since a decision on the project was reached by the voluntary area health planning agency.

The conversion of a general acute care hospital or special hospital to a general acute care/rehabilitation hospital shall not require a certificate of need, as required by Section 437.10, if the health facility is rendering the services specified in subdivision (f) of Section 1250 on January 1, 1979.

SEC. 7. Section 1318 of the Health and Safety Code is amended to read:

1318. The director shall require as a condition precedent to the issuance, or renewal, of any license for a health facility, if the licensee handles or will handle any money of patients within the health facility, that the applicant for the license or the renewal of the license file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his faithful and honest handling of the money of patients within the health facility.

Every person injured as a result of any improper or unlawful handling of the money of a patient of a health facility may bring an action in a proper court on the bond required to be posted by the licensee pursuant to this section for the amount of damage he suffered as a result thereof to the extent covered by the bond.

Whenever the state department determines that the amount of any bond which is filed pursuant to this section is insufficient to adequately protect the money of patients which is being handled, or whenever the amount of any such bond is impaired by any recovery against the bond, the state department may require the licensee to file an additional bond in such amount as necessary to adequately protect the money of patients which is being handled.

The failure of any licensee under this section to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles any patient's trust funds shall constitute cause for the revocation of the license.

The provisions of this section shall not apply if the licensee handles less than twenty-five dollars ($25) per patient and less than five hundred dollars ($500) for all patients in any month.

The director may exempt licensed health facilities of the types specified in subdivisions (a), (b), (c) and (f) of Section 1250 from the requirements of this section. However, the exemption from the bond purchase requirements of this section shall not affect the financial liability of such health facilities.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly

Bill No. 3677 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 3677, that Section 1250 of the Health and Safety Code, as amended by Section 1 of Assembly Bill No. 3677, be further amended on the effective date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 1250 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3677 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250, and this bill is chaptered after Assembly Bill No. 3677, in which case Section 1.5 of this act shall become effective on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill No. 3677 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250.1 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 3677, that Section 1250.1 of the Health and Safety Code, as amended by Section 2 of Assembly Bill No. 3677, be further amended on the effective date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 1250.1 proposed by this bill. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 3677 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1250.1, and this bill is chaptered after Assembly Bill No. 3677, in which case Section 2.5 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

CHAPTER 1227

An act making an appropriation to the State Department of Rehabilitation for the purchase of specified services for developmentally disabled persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. The Legislature reaffirms its intent stated in Section 4502 of the Welfare and Institutions Code that developmentally disabled persons have a right to habilitation services.

SEC. 2. The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the General Fund to the State Department of Rehabilitation for the purchase in fiscal year 1978–79 of habilitation services. Such funds shall be expended for

developmentally disabled adults enrolled in community-based sheltered workshops and work activity centers whose habilitation services are not funded or are only partially funded by any public or private not-for-profit agency, for the period from the effective date of this act through June 1979.

State budget allocations for such habilitation services in fiscal years 1979–80 and 1980–81 shall not exceed two million five hundred thousand dollars ($2,500,000) annually unless the Director of Finance determines, after conferring with the Director of Rehabilitation, that a higher amount is warranted.

SEC. 3. Payments made for such services shall be limited to the annual cost incurred by such workshops and centers with respect to each eligible person, as determined and audited by the department, or such lesser proportional amount as the director of the department may determine, if the amount of funds appropriated by this act is not sufficient to reimburse the total number of unfunded and partially funded developmentally disabled persons who are enrolled in workshops and work activity centers on July 1, 1978, as determined by the department.

Developmentally disabled clients of regional diagnostic centers receiving sheltered workshop or work activity center services paid for by a regional center shall not be included for payment under this act.

Expenditures of funds appropriated by this act shall not duplicate any other state or federal funds for such services and shall be limited to the total number of clients who are enrolled in workshops on July 1, 1978, as determined by the department.

Unfunded developmentally disabled clients shall be fully funded first, subject to the conditions and provisions above, before funding is apportioned for the partially funded.

SEC. 4. As used in this act, the term "developmentally disabled adult" means a person with medically confirmed diagnoses of mental retardation, cerebral palsy, epilepsy, or autism, or any combination thereof, who is determined by the department to be too disabled to benefit from vocational rehabilitation services.

Developmentally disabled adults who are enrolled in habilitation programs in sheltered workshops and work activity centers which meet accreditation standards approved by the department for services to its clients shall be deemed eligible for services under this act.

SEC. 5. The Department of Rehabilitation shall provide a report to the Legislature which shall include, but need not be limited to:

(a) The number of developmentally disabled persons served.

(b) The number of developmentally disabled persons who requested service but were not enrolled during the 1978–79 fiscal year.

(c) The nature of the service purchased and of any assistance given by the department to workshops and work activity centers in implementing this act.

SEC. 6. The department shall define "habilitation services", in consultation with the Department of Developmental Services.

SEC. 7. The Director of the Department of Rehabilitation shall adopt regulations to implement this act.

SEC. 8. This act shall remain in effect only until June 30, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1981, deletes or extends such date.

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

A large population of persons with developmental disabilities resides in and requires services in local communities. Many of these persons are not eligible for existing vocational rehabilitation services although they do need prevocational training. Many of these persons who are not eligible for or otherwise not receiving fee support from other sources have been accepted by community habilitation facilities even though no state or federal reimbursement is available. Other severely handicapped persons are served by habilitation facilities at far below actual cost. This situation has been further exacerbated by the passage of Proposition 13. As a result, many habilitation facilities are in jeopardy of closure, and a primary source of community services to severely handicapped persons may thereby be lost. The immediate enactment of this measure is necessary to enable these habilitation facilities to maintain services necessary for the health, safety, and welfare of severely handicapped persons.

CHAPTER 1228

An act to add Section 5704.6 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 5704.6 is added to the Welfare and Institutions Code, to read:

5704.6. (a) Except as provided in subdivision (a), after July 1, 1979, each county shall allocate for services to persons under age 18, 50 percent of the amount of any budget augmentation received for new or expanded mental health programs until the amount expended for mental health services to persons under age 18 equals not less than 25 percent of the county's gross budget for mental health or not less than the percentage of persons under age 18 in the total population of the county, whichever percentage is less. Once achieved, this minimum ratio shall be maintained continuously

thereafter.

(b) As used in this section, the term "new or expanded mental health programs" does not include any such programs which are required by statute, or such programs which provide alternatives to hospitalization for patients of state hospitals.

(c) From each budget augmentation for new or expanded mental health programs, a county may allocate to persons under age 18 an amount less than the percentage required in subdivision (a) when a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 does not exist or is less than the need for services to one or more specified groups of adults. Such determination shall be a part of the local mental health plan approved by the Director of Mental Health.

CHAPTER 1229

An act to add Section 5721 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 5721 is added to the Welfare and Institutions Code, to read:

5721. The department shall establish and maintain a revolving loan fund to be allocated to county Short-Doyle programs for the purpose of paying the costs of care and treatment in skilled nursing facilities, intermediate care facilities, and community care facilities, pending the determination of a person's eligibility for Supplemental Security Income and California Medical Assistance program benefits.

When a person is determined eligible for Supplemental Security Income and begins receiving such payments, the department may require the person to repay the amount of any loan made from the revolving fund. Such payments shall be deposited in the revolving fund.

CHAPTER 1230

An act to add Article 6 (commencing with Section 436.30) to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code and to amend Section 5715 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Article 6 (commencing with Section 436.30) is added to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 6. Community Mental Health Facilities Loan Insurance

436.30. This article shall be known as, and may be cited as, the Community Mental Health Facilities Loan Insurance Law.

436.31. It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist mental health clients living in any institutional setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved in the county Short-Doyle plan and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 436.45 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for such facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 436.8, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost, except a loan to any proprietary corporation which is insured pursuant to subdivision (d) of this section.

(c) The State Department of Mental Health or the local mental health program may provide all application fees, inspection fees, premiums and other such administrative payments as required by this chapter, except with respect to any loan to a proprietary corporation which is insured pursuant to subdivision (d) of this section.

(d) The borrower may be a proprietary corporation, provided that the facility is leased to the local mental health program for the duration of the insurance agreement. In such instances, all provisions in this chapter and this article which apply to a nonprofit corporation shall apply to the proprietary corporation, except as provided in subdivisions (b) and (c) of this section.

(e) For the purposes of this article, subdivision (c) of Section 436.2 shall include the purchase of existing buildings.

(f) Facilities shall not require approval pursuant to Section 436.4 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the Director of the Office of Statewide Health Planning and Development and the Director of the Department of Mental Health Services determine that the state plan developed pursuant to Section 436.4 adequately and comprehensively addresses the need for community mental health facilities and such finding is reported to the appropriate policy committees of the Legislature.

436.32. Loans of under three hundred thousand dollars ($300,000) for any single facility shall have priority for obtaining loan insurance under the special provisions established pursuant to Section 436.31.

436.33. The total amount of loans which may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

436.34. No loan insurance shall be provided pursuant to this article for the purpose of providing psychiatric inpatient services in an acute psychiatric hospital or a general acute care hospital.

436.35. The Legislative Analyst shall review and comment on the utilization and effectiveness of this article in the annual budget analysis and in hearings.

436.36. If, in construing Article 6 (commencing with Section 436.30) of this chapter as applied to the other provisions of this chapter, any conflict arises, the provisions of this article shall prevail over the other provisions of this chapter.

436.37. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 2. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; salaries of personnel; approved facilities and services provided through contract; operation, maintenance and service costs; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of

buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board (except actual and necessary expenses incurred in the performance of official duties); or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

CHAPTER 1231

An act to repeal Section 38261 of the Health and Safety Code, and to repeal and add Section 4681 of the Welfare and Institutions Code, relating to developmentally disabled persons.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 38261 of the Health and Safety Code is repealed.

SEC. 2. Section 4681 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 4681 is added to the Welfare and Institutions Code, to read:

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year, subject to the appropriation of sufficient funds for such purpose in the Budget Act. In establishing rates to be paid for out-of-home care, the department shall include each of the cost elements in this section as follows:

(a) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, between the age of 12–17, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Developmental Services, using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision"

shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision. Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The individual program plan developed pursuant to Section 4646 shall determine the amount of "direct supervision" required for each individual. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the Fair Labor Standards Act.

(c) Rates established for all facilities that provide "special services" for persons with developmental disabilities shall include an amount to pay for such "special services" for each person receiving special services. "Special services" include medical and dental care and therapeutic, educational, training, or other services required in the individual program plan of each person. Facilities shall be paid for providing special services for each individual to the extent that such services are specified in the person's individual program plan and the facility is designated provider of such special services. Rates of payment for special services shall be the same as prevailing rates paid for similar services in the area.

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

(g) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

(h) Rates established for developmentally disabled persons who are also mentally disordered may be fixed at a higher rate. The State Department of Mental Health shall establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also mentally disordered may be paid when requested by the director of the regional center and approved by the Director of the Department of Developmental Services.

CHAPTER 1232

An act to add Chapter 12 (commencing with Section 4830) to Division 4.5 of the Welfare and Institutions Code, relating to developmentally disabled persons, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Chapter 12 (commencing with Section 4830) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 12. COMMUNITY LIVING CONTINUUMS

4830. As used in this chapter:

(a) "Continuum" means a coordinated multicomponent services system within the geographic borders of each of the 13 area boards on developmental disabilities whose design shall support the sequential developmental needs of persons such that the pattern of these services provides an unbroken chain of experience, maximum personal growth and liberty.

(b) "Normalization" means making available programs, methods, and titles which are culturally normative, and patterns and conditions of everyday life which are as close as possible to the norms and patterns of the mainstream of society.

(c) "Designated agency" means the legal entity selected by the Department of Developmental Services to be responsible for organizing or providing services within each continuum or both.

4831. The State Department of Developmental Services may develop the design and phase-in plan for continuums and may designate one or more designated agencies to implement community living continuums throughout the state, after consideration of a recommendation from the respective area board

on developmental disabilities in conjunction with recommendations from the appropriate regional center.

4832. An area board may review and evaluate existing and proposed community living arrangement programs within their jurisdiction and may make a recommendation to the Director of the Department of Developmental Services concerning programs which should be considered as the most appropriate agency to be designated as responsible for the implementation of the community living continuum within their area. These programs shall include but not be limited to those which have been funded through the issuance of Mental Retardation Private Institutions' fund grants, Developmental Disability Community Development grants, and model state hospital programs. Consideration shall be given to:

(a) Private nonprofit corporations;

(b) Public or quasi-public corporations; or

(c) A joint powers agreement agency.

The board of directors, public or private or an advisory committee in the event a public agency is selected, shall be composed of the following three categories with equal representation in each category:

(a) Governmental representatives;

(b) Private sector representatives;

(c) Consumer representatives, including members of the immediate family of the consumer.

No person shall be appointed or serve, as a director or advisory committee member, who is a member of a program policy committee of a designated agency, or an employee of a local agency which directly affects the designated agency operations, or an employee or member of the state council or an area board, or a member of a governing board from which a designated agency purchases services, or any person who has a financial interest as defined in Section 87103 of the Government Code in designated agency operations, except with respect to any interest as a consumer of a designated agency or regional center services.

4833. Upon designation by the Department of Developmental Services pursuant to Section 4831, the designated agency established pursuant to Section 4832 shall:

(a) Design, organize and/or provide services for persons in local communities.

(b) Seek and utilize funds from all available resources.

(c) Assure that all programs within the community living continuum shall provide all employees with competency-based, pre- and in-service training, which is coordinated with appropriate, public education agencies.

(d) Establish public support and acceptance for community development with full integration of individuals with developmental special needs.

The community living continuums shall be based upon the principle of normalization and shall include provisions for, but not be

limited to, individual choice of living in home, in various types of apartments, small group dwellings, or condominiums. The department and these programs shall assure that services are provided in, or as close to, a person's home community as feasible.

4834. The Director of the Department of Developmental Services may contract with a designated agency, pursuant to this chapter.

4835. The Director of Developmental Services may establish uniform operational procedures, performance and evaluation standards and utilization criteria for designated agencies pursuant to this chapter.

These standards and criteria shall be developed with participation by consumer organizations, area boards on developmental disabilities, the Association of Regional Center Agencies, the Department of Social Services, the Department of Health Services, the Department of Education, the Department of Rehabilitation, and the Department of Mental Health and consultations with individuals with experience in developmental services programming.

4836. The director shall prepare a yearly report to the Legislature on the progress and effectiveness of the system using the state evaluation model in accordance with this division.

4837. The Director of Developmental Services may provide 90-day advance funding to the designated agency or community-based programs for the development or provision of continuum services under the jurisdiction of the department.

Notwithstanding any other provision of law, any contract entered into by the department with a designated agency pursuant to this chapter may provide for periodic advance payments for services to be performed under such contract. No advance payment made pursuant to this section shall exceed 25 percent of the total annual contract amount.

4838. The Department of Developmental Services shall study and report to the Legislature, no later than January 1, 1980, on the feasibility for integration of state services, staff, and programs into the continuum of local services. The report should include, but not be limited to, the issues of:

(a) Continuity of state services, staff relocations, and retraining.

(b) The transfer of program and administration funds to the designated agency without service loss.

(c) Employment rights of staff in programs within the continuum.

(d) Analysis of problems which may be encountered with the transfer of state employees to the designated agency and recommendations for solutions to such problems.

(e) The establishment of information and data exchange on a regular basis, not less than quarterly, between the designated agency and the most proximate state hospital in association with the appropriate regional center or centers to assure integration of effort, program continuity, nonduplication of effort, high-quality services,

and interagency confidence.

(f) Provisions for the establishment of internal and external monitoring criteria based on agreements with local developmental disability consumer organizations, the local area board, the State Council on Developmental Disabilities.

4839. The Department of Developmental Services may study and prepare a plan in cooperation with the State Council on Developmental Disabilities. Such a plan should consider the following: necessary technical assistance, training, and evaluation to assure standards of quality and program success.

(b) Maximize existing state and federal resources available to assist persons with developmental special needs to live in the least restrictive environment possible, including:

(1) Federal housing subsidy and assistance.

(2) Supplemental security income.

(3) Local social services.

(4) Local and state health services and related resources.

(c) Procedural standards for designated agencies, including:

(1) Program development process.

(2) Training for workers in the developmental services field.

(3) Management information system.

(4) Fiscal accountability and cost benefit control.

(5) Establishment of contractual relationships.

(6) Evaluation.

4840. The Director of Developmental Services shall study and report to the Legislature, no later than June 15, 1979, on the:

(a) Development of methods for the continuation of funding to complement client purchase of service funds and other resources for better utilization.

(b) Feasibility of integration and use of Title XIX funds for individualized developmental programs for in-home and community care facilities and staff.

4841. Notwithstanding the provisions of Sections 4675, 4676 and 4677, the Director of Developmental Services, when reviewing, approving, and allocating money from the Program Development Fund for community living arrangements, shall give high priority to programs which may be included in a continuum.

4842. The Director of Developmental Services shall report to the Legislature, no later than June 1, 1979, on the status of coordination activities with Department of Social Services licensing and Department of Health Services licensing for all ongoing and new community living arrangement activities for individuals who need developmental services with the following goals:

(a) To implement a statewide network of community living arrangements and support services, based on the least restrictive alternative with priority placed upon supporting the individual in the family home wherever possible.

(b) To implement the principles of normalization in community living arrangements in the state.

(c) To be responsible for coordinating and reviewing all state activities related to community living arrangements and support services for people who need developmental services.

4843. To accomplish the goals enumerated in Section 4833, the director may:

(a) Develop a continuum training model and provide technical assistance to providers of community living arrangements through state and county agencies and regional center professional collaboration.

(b) Establish competency-based training programs.

(c) Centralize and increase the availability and dissemination of information regarding community living arrangements.

(d) Assist the agencies in community living continuums and regional centers in the recruitment of qualified care providers and staff in order to fulfill the increasing need for quality living arrangements and support services.

4844. The Director of Developmental Services shall initiate and monitor interagency performance agreements between the Department of Rehabilitation, the Department of Mental Health, the Department of Health Services, the Department of Social Services, and the Department of Housing and Community Development to assure planning, coordination and resource sharing.

4845. If authorized by regulations adopted by the department and if not available through other state or local programs, the continuum services may with respect to the designated agency, include, but shall not be limited to:

(a) Family subsidy programs.

(b) In-home support services.

(c) Subsidized adoptive and quasi-adoptive foster care services.

(d) Alternative respite services.

(e) Crisis assistance.

(f) Independent and semi-independent living.

(g) Group living for six or fewer persons.

(h) Programs to meet the special needs of individuals who are medically fragile.

(i) Services to persons requiring maximum supervision due to intensive behavioral and severe developmental special needs.

It is not the intent of this section to release any other state or local agency of its program responsibilities.

4846. Interagency agreements shall be established between the regional centers and the community living continuums to assure clear roles and responsibilities for delivery of services; and may include the Department of Rehabilitation Independent Living Programs where applicable.

SEC. 2. There is hereby appropriated from the General Fund to the State Department of Developmental Services the sum of twenty-five thousand dollars ($25,000) for expenditure for carrying out this act.

CHAPTER 1233

An act to add Chapter 5 (commencing with Section 5450) to Part 1 of Division 5 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. The Legislature finds and declares that the current mental health system provides insufficient alternatives to institutionalization and hospitalization for those citizens entering that system, and further finds and declares that the need exists for a full system of alternatives to institutional settings which have as a focus the rehabilitation of clients of the mental health system, and further finds and declares that a full system of alternatives to institutionalization, with coordination in each county, is necessary to provide a real alternative to institutionalization.

SEC. 2. Chapter 5 (commencing with Section 5450) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 5. COMMUNITY RESIDENTIAL TREATMENT SYSTEM

5450. It is the intent of the Legislature to establish a statewide system of residential treatment programs which provide, in each county, a range of available services which will be alternatives to institutional care and are based on principles of residential, community-based treatment.

5450.1. It is further the intent of the Legislature that community residential mental health programs in the State of California be developed in accordance with the guidelines and principles set forth in this chapter. To this end, counties may implement the community residential treatment system described in this chapter either with available county allocations or, as new moneys become available, by applying for funds to the State Department of Mental Health.

5450.2. It is further the intent of the Legislature to provide guidelines for such a system to the applicants, while allowing each applicant the flexibility to design a system specific to the nature of the community and the needs of the clients.

5451. It is further the intent of the Legislature that the State Director of Mental Health, in allocating funds available for programs which serve as alternatives to institutionalization, follow the guidelines and principles developed in this legislation.

5453. The State Director of Mental Health shall use the following as criteria in determining the eligibility of each applicant:

(a) Facilities:

(1) Settings, whether residential or day, shall be as close to a

normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers shall be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.

(3) The individual elements of the system shall, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs shall be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) Programs shall be encouraged to use paraprofessionals where appropriate.

(c) Programs:

(1) The programs shall, to the maximum extent feasible, be designed so as to reduce the dependence on psychiatric medications as a primary treatment tool.

(2) The programs shall have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they shall include prevocational and vocational programs.

(3) The program shall encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system shall not preclude the involvement of clients in individual therapy. Individual therapists of clients shall, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs shall demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but should include, whenever possible, community resources utilized by the general population.

5454. The system shall be designed to coordinate with current elements of local agencies. Counties shall, in applying, demonstrate how they will coordinate their new system elements with in-place elements. The counties shall in particular demonstrate preexisting satisfactory capability in the following two elements: (1) a crisis unit for evaluation, diagnosis, and disposition planning for persons in psychiatric crisis; and (2) a case management system in which the case manager serves as a coordinator to assure the cooperative operation of the various elements of the system and to act as an active

advocate for the clients in the system. The case manager shall assure that each client receives the appropriate type of service. The case manager shall meet regularly with clients, work closely with program staff and serve as an advocate. The case manager shall work directly with the client and the system to assure continuity of care between the service elements of the system. All case managers shall be under the direct supervision of a psychiatrist, psychologist or a social worker with a master's degree.

(b) Counties may apply for funds for these two elements as part of the application procedure for this system, if additional capability in these elements is necessary to the appropriate functioning of the system.

5458. The following shall be the program elements of the system. These shall be designed to provide, at every level, alternatives to institutional settings. Counties in applying for these funds shall show how each of these elements works with the current programs and in-place programs. Counties may apply for funds in the following categories.

(a) A short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or situational crisis requiring temporary removal from their home environment. The program shall be available for admissions 24 hours a day, seven days a week. The primary focus of this element shall be on reduction of the crisis, stabilization, and a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program shall include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, development of a support system, including income and treatment referrals. This service shall be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. It shall be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

(b) A long-term residential treatment program, with a full day treatment component as a part of the service, for persons who may require intensive support for as long as two or three years. This service shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program will be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also will serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program goes beyond maintenance to provide an active rehabilitation focus for these individuals.

The services shall include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day

treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. These programs may employ a variety of staffing patterns and are for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents are required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system elements, but, who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses are shared by three to five persons. The small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This element is for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system in order to remain in this setting. The satellite units should be as normative as the general living arrangements in the communities in which they are developed.

(e) In areas applying for a system where there is no day treatment program, or where the day treatment program is housed totally in a hospital, the county shall be encouraged to develop such a program, consistent with the principles and practices outlined above, in a noninstitutional setting and employing a rehabilitation focus. Where there are already existing services, efforts should be made to assure the capability of such day treatment services with the goals of the system elements. This may require the relocation of such services or

the addition of staff.

(f) The socialization centers shall be designed to serve a broad range of clients, including those in the system elements, when appropriate, as well as persons living in the community, in general. This service is designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services shall include, but not be limited to, outings, recreational activities, cultural events, linkages to community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program is for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living.

5459. The system programs shall be able to demonstrate the manner in which they will be coordinated with one another, as well as with the other treatment services in their area. The system shall be developed in such a way that clients may move within the continuum to the most appropriate, least restrictive level of service. The system shall also allow for direct referral of clients, without requiring that a person pass through the entire system to reach the most appropriate level.

5460. Each applying county shall demonstrate the manner in which the system will be evaluated, both as individual elements, and as a system. An adequate proportion of funds shall be applied to the development and implementation of an appropriate evaluation system for these programs. This evaluation shall include appropriate client outcome measures and program review of each element in the system. By December 31, 1980, the State Department of Mental Health shall conduct or contract for the evaluation. The evaluation report shall then be transmitted to the Legislature.

5461. In order to avoid duplication of services, as well as duplication of planning, the approved system programs shall show that they have been incorporated into the county Short-Doyle plan developed for the year the system is to be implemented. Grants for the system will be made to the counties, who shall, in turn, develop contracts for the service elements as outlined in the proposal.

5462. The Director of the Department of Mental Health shall establish an advisory committee to screen all system proposals and make recommendations as to approval. The advisory committee shall consist of at least nine members, 51 percent of whom shall be consumers. Of the provider members, at least two shall be

representatives of the California Association of Social Rehabilitation Agencies. The members shall be appointed by the Director of Mental Health.

5463. All counties applying for a system grant shall include a survey of all existing residential treatment and day or socialization programs in the area served by the system. The survey shall indicate the manner in which the system elements will coordinate services with existing residential and day programs.

5464. Facilities funded pursuant to this section shall be licensed under existing licensing categories, including provisional licenses. The director shall review the appropriateness of these licensing categories. If the director determines that new licensing categories are necessary, he shall issue a report and recommendations to the Legislature.

SEC. 3. There is hereby appropriated from the General Fund to the Department of Mental Health the sum of three million dollars ($3,000,000) for expenditure for the programs established pursuant to Chapter 5 (commencing with Section 5450) of Part 1 of Division 5 of the Welfare and Institutions Code, as enacted by this act.

CHAPTER 1234

An act to add Sections 1250.2, 1254.1, and 1275.1 to, the Health and Safety Code, and to amend Sections 5707 and 7100 of, and to add Sections 5651.2, 5652.5, 6003.1, and 6003.2 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 1250.2 is added to the Health and Safety Code, to read:

1250.2. (a) As defined in Section 1250, "health facility" includes the following type: "psychiatric health facility" means a health facility which provides 24-hour inpatient care for mentally disordered, incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. Such care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a non-hospital setting. The State Department of Mental Health shall

require regular utilization reviews of admission and discharge criteria and lengths of stays in order to assure that such patients are moved to less restrictive levels of care as soon as appropriate.

(b) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

SEC. 2. Section 1254.1 is added to the Health and Safety Code, to read:

1254.1. (a) The state department, in addition to the licensing duties imposed by Section 1254, shall license psychiatric health facilities to provide their basic services specified in Section 1250.

(b) Any reference in any statute to Section 1254 shall be deemed and construed to also be a reference to this section.

SEC. 3. Section 1275.1 is added to the Health and Safety Code, to read:

1275.1. (a) Notwithstanding any rules or regulations governing other health facilities, the regulations developed by the state department for psychiatric health facilities shall prevail. The regulations applying to psychiatric health facilities shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services based on the needs of the persons served thereby.

(b) The regulations shall include standards appropriate for two levels of disorder:

(1) Involuntary ambulatory psychiatric patients.

(2) Voluntary ambulatory psychiatric patients.

For purposes of this subdivision, "ambulatory patients" shall include, but not be limited to, deaf, blind, physically handicapped, and disoriented persons who are not bedridden or confined to a wheelchair.

(c) The regulations shall not require, but may permit building and services requirements for hospitals which are only applicable to physical health care needs of patients that can be met in an affiliated hospital or in outpatient settings including, but not limited to, such requirements as surgical, dietary, laboratory, laundry, central supply, radiologic, and pharmacy.

(d) The regulations shall include provisions for an "open planning" architectural concept.

(e) The regulations shall exempt from seismic requirements all structures of Type V and of one-story construction.

(f) Standards for involuntary patients shall include provisions to allow for restraint and seclusion of patients. Such standards shall provide for adequate safeguards for patient safety and protection of patient rights.

(g) The regulations shall provide for the retention by the psychiatric health facility of a consultant pharmacist, who shall supervise and review pharmaceutical services within the facility and perform such other services, including prevention of the unlawful diversion of controlled substances subject to abuse, as the state department may by regulation require. Regulations adopted

pursuant to this subdivision shall take into consideration the varying bed sizes of psychiatric health facilities.

(h) The Legislature finds and declares that:

(1) Many counties do not now have adequate acute psychiatric 24-hour inpatient care facilities.

(2) Many counties do not now have any beds or services for care of such persons.

(3) Such services can be provided effectively in a nonhospital setting for less cost.

Therefore, in order to allow counties and other organizations to develop such facilities, the Office of Statewide Health Planning and Development in the Health and Welfare Agency shall issue certificates of exemption to applicant facilities which (i) are approved by the Department of Mental Health pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code, and (ii) are granted licensure waiver by such department pursuant to Section 5768 of the Welfare and Institutions Code or licensed by the State Department of Health Services pursuant to this article, on or before December 31, 1979; provided that the office, not later than 30 days after receipt of such application, shall deny issuance of such certificate of exemption if the office finds, after a public hearing and upon receipt of an affidavit of the State Department of Mental Health, that adequate psychiatric hospital beds now exist in the applicant's local service area to meet the needs of the clients proposed to be serviced pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code in the psychiatric health facility. Thereafter, facilities which receive such approval and are granted licensure waiver by the State Department of Mental Health or licensed by the State Department of Health Services, on or after January 1, 1980, shall be required to apply for certificates of need. Such certificates of need shall be issued only if the office finds that the applicant's facility will not make available more beds and patient days of care than are necessary to meet the needs for such care in the applicant's county or service area, inclusive of days already provided by existing psychiatric hospitals.

(i) Regulations shall be developed and presented for adoption at public hearing pursuant to the Administrative Procedure Act within 180 days of the effective date of this section.

(j) In order to assist in the rapid development of regulations for psychiatric health facilities, the director of the state department, not later than 30 days after the effective date of this section, shall convene an ad hoc advisory committee composed of two members from the State Department of Mental Health, two members of the Conference of Local Mental Health Directors, two members from the State Department of Health Services, one member from the Office of Statewide Health Planning and Development, two persons with experience operating psychiatric facilities and any other persons having a professional or personal nonfinancial interest in

development of such regulations. The nonstate employee members of such advisory committee shall pay their own expenses related to participation on the committee. Such committee shall meet at the director's pleasure until such time as the proposed regulations are presented for adoption at public hearing.

SEC. 4. Section 5651.2 is added to the Welfare and Institutions Code, to read:

5651.2. (a) In addition to the elements required by Section 5651, the county Short-Doyle plan shall include a description of the intent of the county mental health service to offer or obtain acute and other levels of psychiatric 24-hour inpatient care either in a hospital or in a nonhospital setting, including those designated pursuant to Section 5404.

(b) The estimate of county utilization of state hospitals required by Section 5651 shall also contain an estimate of how many of these patients could be treated in the local community, the resources required and available to treat these persons in the community, and how many of these persons could be treated in a local hospital or nonhospital inpatient facility and the projected cost for treating such persons in such local hospital or nonhospital facilities.

(c) Any reference in any statute to Section 5651 shall be deemed and construed to also be a reference to this section.

SEC. 5. Section 5652.5 is added to the Welfare and Institutions Code, to read:

5652.5. (a) Psychiatric health facilities, as defined in Section 1250 of the Health and Safety Code, shall only be licensed by the State Department of Health Services subsequent to application by counties or other organizations pursuant to this part and approval by the State Department of Mental Health.

(b) (1) In counties that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for such facility and a description of the services to be provided. The local mental health director shall then submit to the governing body such explanation and description in the form of an amendment to the county Short-Doyle plan. The governing body, upon its approval of such amendment, may submit it to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to utilize any Short-Doyle funds pursuant to Section 5707 shall submit their applications to the governing body in the county in which the facility is to be located. The governing body shall have 30 days during which to make recommendations on such applications. At any time after such 30-day period, such organizations may then submit their applications, along with the governing body's recommendations, if any, to the State Department of Mental Health.

(c) Until such time as the State Department of Health Services adopts regulations for psychiatric health facilties pursuant to Section 1275.1 of the Health and Safety Code, a county or other organization

may apply to the State Department of Mental Health for licensure waiver pursuant to Section 5768. The State Department of Mental Health shall be the lead agency for coordination of the development of criteria by which licensure waiver shall be granted and shall be responsible for the coordination of the process for approval of such waivers.

(d) The State Fire Marshal, the Office of Statewide Health Planning and Development, the State Department of Health Services, and other appropriate state agencies shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health shall approve such licensure waivers not later than 90 days after the submission by a county or other organization of the amendment to the Short-Doyle plan and request for waiver.

(e) Each psychiatric health facility shall be periodically inspected pursuant to Section 1279 of the Health and Safety Code. In order to assure that quality care is provided in such facilities, the representatives of the State Department of Health Services shall be accompanied by a representative or representatives of the State Department of Mental Health and shall invite representatives of the county mental health program and the county mental health advisory board.

(f) It is the intent of the Legislature that the State Department of Mental Health shall approve psychiatric health facilities only if the average per diem costs of service provided in such facilities are approximately 60 percent of the average per diem costs of similar psychiatric services provided in a general hospital. In utilizing such cost guidelines, the department shall take into account local conditions affecting such costs.

SEC. 5.5. Section 5707 of the Welfare and Institutions Code is amended to read:

5707. Subject to the provisions of Section 5714.1, services specified in the approved county Short-Doyle plans shall be financed within the fixed amounts appropriated each year by the state and the counties except for services that are to be financed from other public or private sources.

Upon approval by both parties, the county Short-Doyle plan shall be deemed to be a contractual arrangement between the state and county.

A county or other organization may elect to provide or obtain 24-hour inpatient care in a psychiatric health facility. If this method of providing psychiatric care is included in the county's Short-Doyle plan pursuant to Section 5652.5 and is approved by the State Department of Mental Health, but does not qualify for federal financial participation under Title XIX, such services provided to otherwise Medi-Cal eligible clients shall be funded, notwithstanding Section 5705, at 100 percent state cost by using an appropriate portion of the county's existing Short-Doyle Medi-Cal allocation, as determined by the State Department of Mental Health. A

psychiatric health facility may also provide services to non-Medi-Cal eligible clients which shall be funded on a 90 percent state, 10 percent county basis except as provided in Section 5705.

Psychiatric health facilities may be operated by public or private agencies, including profit and not-for-profit agencies, pursuant to the provisions of this part.

The intent of the Legislature in enacting this section is to provide a funding source for counties to establish psychiatric health facilities without any increased costs to the state General Fund and at the same time not to require the county to provide additional matching funds in order for the county to use a portion of its state share of Short-Doyle Medi-Cal funds now available to counties without a required 10 percent match.

Not later than 30 days after the effective date of this act, the State Department of Mental Health shall seek approval from the federal government for financial participation under Title XIX for services provided by psychiatric health facilities.

If the federal government approves such financial participation, then the state allocation to counties pursuant to this section shall be replaced to the extent of such federal participation. In addition, not later than six months after such federal approval, the State Department of Mental Health shall make a report and recommendation to the Legislature regarding whether the counties should receive any portion of such federal financial participation, in addition to their existing state allocation. In making such recommendation, the report of the department shall take into account the efforts made by counties to establish such psychiatric health facilities and such report shall describe the amounts and types of funds expended by such facilities.

SEC. 6. Section 6003.1 is added to the Welfare and Institutions Code, to read:

6003.1. As used in this article, county psychiatric health facility means the nonhospital 24-hour acute care facility provided by the county pursuant to the provisions in Sections 5404 and 7100.

SEC. 7. Section 6003.2 is added to the Welfare and Institutions Code, to read:

6003.2. Wherever in this article the term "county psychiatric hospital" appears, such term shall be interchangeable with the term "psychiatric health facility."

SEC. 8. Section 7100 of the Welfare and Institutions Code is amended to read:

7100. The board of supervisors of each county may maintain in the county hospital or in any other hospital situated within or without the county or in any other psychiatric health facility situated within or without the county, suitable facilities and nonhospital or hospital service for the detention, supervision, care, and treatment of persons who are mentally disordered, mentally retarded, or who are alleged to be such.

The county may contract with public or private hospitals for such

facilities and hospital service when they are not suitably available in any institution, psychiatric facility, or establishment maintained or operated by the county.

The facilities and services for the mentally disordered and allegedly mentally disordered shall be subject to the approval of the State Department of Mental Health, and the facilities and services for the developmentally disabled and allegedly developmentally disabled shall be subject to the approval of the State Department of Developmental Services. The professional person having charge and control of any such hospital or psychiatric health facility shall allow the department whose approval is required to make such investigations thereof as it deems necessary at any time.

Nothing in this chapter means that mentally disordered, or mentally retarded persons may not be detained, supervised, cared for, or treated, subject to the right of inquiry or investigation by the department, in their own homes, or the homes of their relatives or friends, or in a licensed establishment.

CHAPTER 1235

An act to add and repeal Section 8214 of the Education Code, to add and repeal Section 65035.1 of the Government Code, and to add and repeal Part 1.5 (commencing with Section 10100) of Division 9 of, to add and repeal Sections 10053.25, 10618, 11200.5, 12254, 12308, 16513, 18254, 18280.5, and 18950.5 of, and to repeal Chapter 3 (commencing with Section 10153) of Part 1.5 of Division 9 of, the Welfare and Institutions Code, relating to social services.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Part 1.5. (commencing with Section 10100) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 1.5. SOCIAL SERVICE PLANNING

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

10100. This part shall be known and may be cited as the California Social Services Planning Act.

10101. The Legislature recognizes that social services programs in California have historically grown at a rate which exceeds increases in state population and inflation. Such growth has taken place in spite of the lack of state and local government ability to demonstrate that funds have been spent efficiently and effectively.

The Legislature further recognizes that approval of Proposition 13

at the June 6, 1978, election will seriously curtail future social services funding expansion at the state and local levels.

Therefore, it is the intent of the Legislature to encourage state, county and city agencies to develop comprehensive and coordinated service systems, maximize existing resources and concentrate them in areas of greatest need, and enter into cooperative arrangements for planning and providing social services. To fulfill this intent requires a systematic planning process which describes the social service needs and the limited available resources, solicits input from a broad spectrum of the public, and coordinates and sets priorities for the allocation of those resources to meet the greatest needs in an equitable and realistic manner.

Toward this end, the Legislature intends that a planning process be used to prepare a social services plan which shall include a prediction of program utilization for California which shall be submitted annually for legislative review, and an annual plan which shall be prepared to fulfill the planning requirement imposed by Section 2004 of Title XX of the Social Security Act.

10102. The goals of social service programs included within this planning process are as follows:

(a) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(b) Achieving or maintaining self-sufficiency, including the reduction or prevention of dependency;

(c) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(d) Preventing or reducing inappropriate institutional care by providing for community-based care, or other forms of less intensive care; and

(e) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

These goals shall form the basis for each county's determination and the state's determination of services priorities and resources allocation.

10110. The following definitions shall govern the construction of this part:

(a) "Social services" includes all programs and activities which are funded in whole or in part by Title XX of the Social Security Act and which satisfy any one of the following criteria:

(1) Administered and provided by the county welfare departments under supervision of the State Department of Social Services. The county administered programs include both those directly operated by the counties and those contracted for by the counties.

(2) Administered by the State Department of Social Services and provided by one of its organizational components or local provider agencies.

(3) Provided by other departments of state government through contractual arrangement with the State Department of Social Services.

For purposes of this part, social services does not include income maintenance programs.

(b) "Department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

(d) "State plan" means the state social services plan developed pursuant to the requirements of this part and the requirements of Section 2004 of the Title XX of the Social Security Act.

(e) "Prediction of program utilization" means the information supplied the Legislature which will permit an annual review of social services programs and also permit an informed determination of resources to be allocated.

(f) "County plan" means the county social services plan developed pursuant to the requirements of this chapter.

(g) "OPR" means the Governor's Office of Planning and Research.

10120. A state social services plan and the prediction of program utilization shall be developed for the purpose of providing an annual review and reauthorization of all social service programs to ensure the following:

(a) State and county priorities and programs are directed toward resolving the most pressing social services issues facing the state and the county.

(b) Available public and private resources at the federal, state and local levels are coordinated in a manner which will maximize their potential.

(c) At appropriate points in the decisionmaking process, public input is solicited and incorporated in the plan.

(d) The relationship between the planning and program cycle and the budget cycle is specified to insure that the social services plan is compatible with and presented as part of the state budget.

(e) The designated social services, regardless of their placement within different agencies, are coordinated and integrated.

(f) All federal and state funds made available for social services through the state budget are appropriated in accordance with the approved plan.

10121. The following funds are subject to allocation through the planning process:

(a) Title XX federal funds and state and county funds required to match these federal funds.

(b) All other state funds provided through the Budget Act to support social service programs as defined by this chapter.

The allocation of funding for each of the social services included in the state plan and the amount of resources allotted to each of these services shall be based upon the counties' approved plans. The state plan shall describe the amount of funds to be allocated to each county for the services covered by the proposed state plan. State departments and offices legally responsible for administering the

social services at the state level, shall organize into the state plan format, as specified by the director, their respective social service programs. Such departments and offices shall utilize in preparing their plans the priorities, assessments of need, and allocation of resources provided by the counties' approved plans, consistent with applicable federal and state laws and regulations. Each state department or office shall submit its part of the plan in accordance with the time schedule and other instructions provided by the director.

In the event that the state plan deviates from a county plan because of federal or state laws or regulations, or because of conflicts between state and county priorities, the state shall comment on the variances between the two plans and shall make a public finding of these variances. The department and other state departments shall jointly identify the stages in the development and implementation of the portions of the state plan administered by the respective state department in which coordination and reasonable consensus is necessary and desirable. The final plan submitted by the State Department of Social Services shall state any unresolved variances between the department and other state departments affected by the state plan.

CHAPTER 2. STATE PLAN

10130. The Governor shall prepare annually for submission to the federal government and the Legislature a state social services plan which meets the objectives specified in Section 10120. The basis for the state plan and the prediction of program utilization shall be county prepared plans which conform to the requirements of this part, state directives and Section 2004 of Title XX of the Social Security Act.

The Governor is empowered to delegate his responsibilities under this section and under the provisions of Section 2004 of Title XX of the Social Security Act to the Secretary of the Health and Welfare Agency or the Director of the State Department of Social Services.

10131. Each county shall prepare annually for submission to the director a county social services plan which meets the objectives specified in Section 10120. The county plan, in support of the services it proposes to provide, shall contain all the information and data required for, and in the format and organization specified by this part. County plans shall be prepared and submitted in accordance with the guidelines and time schedule issued by the director.

The county plan submitted for state approval shall include at least the following:

(a) A description of the planning process

(b) Qualitative and quantitative statement of needs and problems.

(c) A resource inventory that includes, but is not limited to:

(1) Source, amount, and funding period for all available public

and private social service funds.

(2) Federal block grants available to the county or to communities in the county which are used for social services or which are not committed and may be available for social services.

(d) Statement of social service goals addressed by the plan.

(e) Statement of prioritied social service objectives which are measurable and designed to have a specific client impact.

(f) Program coordination statement developed pursuant to Section 10135.

(g) Descriptions of each social service program including the sets of activities or resources designed to attain a specific prioritied objective, which description shall include family planning. For the purposes of this chapter family planning is defined to include those activities referenced in subdivisions (a), (b), (c), and (d) of Section 10053.2 of this code.

(h) Statement of capacity to meet identified goals and identification of state and local constraints preventing the attainment of goals.

(i) Process for monitoring program implementation.

(j) A summary of the monitoring and reporting activities taking place in each of the local agencies.

(k) An evaluation of the effectiveness of the prior year's performance in relation to the measurable goals and objectives of social services for that year. This evaluation shall show the extent to which the numbers of persons and families proposed to be served have been served; the direct cost per unit for the delivery of those services; and the administrative cost per unit of social service for each category. The results of these evaluations shall be used to identify needs and establish priorities for the coming year.

(*l*) Total program cost and cost per unit for the delivery of the individual service program.

(m) Description of the process by which public input is solicited.

(n) Summary of public response to the plan and its priorities.

(o) Description of the process by which the plan can be amended pursuant to federal and state laws and regulations.

10132. The county welfare department shall be responsible for fulfilling planning requirements for the county unless another agency is so designated by the county board of supervisors. Counties may, through joint powers agreements, combine to plan as a multicounty region. Tribal councils may be designated as the local social services agency responsible to the agency for program planning. Locally designated agencies shall be responsible for the following:

(a) Integrating the local planning processes required by federal and state programs as defined in Section 10110 into one planning process at the local level.

(b) Implementing the needs assessment, resources inventory, and program evaluation.

(c) Ensuring that public comment on a draft of the county plan

be solicited through such processes and methods as are determined acceptable by the director. If public hearings constitute one such method, copies of the draft county plan shall be readily available to the public at least 10 days prior to the hearing.

Each agency designated by the county board of supervisors as the planning body shall utilize such processes and methods throughout the course of the plan's development as are appropriate and necessary to assure reasonable opportunity for citizen input from diverse population groups. A process shall be specified in the draft county plan for altering that plan through public input and this input shall be reflected in the plan submitted to the state. Methods used to obtain citizen participation shall be described in the plan and copies of the final county plan shall be available to the public prior to the submission of the plan to the state.

(d) Ensuring the full participation of public and private local social service agencies financed in whole or in part by public funds, including each agency providing family planning services, in a coordinated needs assessment, resources inventory, planning service delivery and evaluation process.

(e) Identifying local priorities based upon local needs assessments, analysis or resources, and evaluations of existing social service programs.

(f) Preparing local plans.

(g) Ensuring compliance with administrative standards established by the state.

(h) Submitting fiscal and statistical reports required by the state.

(i) Meeting the minimal standards of acceptability developed pursuant to subdivisions (e) and (f) of Section 10134 related to services and program standards and related to planning for the county plan for needs assessments, resources inventories, citizen participation and evaluation.

(j) Incorporating services and resources information provided by cities located within the county into the county plan.

The county boards of supervisors shall review and approve the local plan and commit the utilization of local resources and funds for the support of the plan.

10132.5. Each county shall designate a staff person in the county welfare department who shall have the major responsibility to assist such county department in the implementation of this part.

10133. The state plan in support of the social services it proposes to provide shall contain the following:

(a) The social service priorities for the state based upon a compilation of local priorities and services needs derived from county plans, consistent with the priority criteria specified in Section 10121 and in accord with the performance evaluation of the prior year's plan.

(b) The social services to be provided under the plan with the objectives and goals to be achieved by each social service, their priority assignment, and the delivery methods to be used.

(c) A prediction of program utilization for each social service described in the plan based upon a compilation of needs assessment data provided by county plans, as modified pursuant to Section 10121, showing the numbers of persons or families in need of the social service and a brief description of factors constituting such need.

(d) An inventory of resources available for social services at the state level, including state funds and federal funds administered by the state, and at the county level based upon county plans.

(e) The portion of resources identified in the resources inventory to be allocated to each of the social services provided under the plan, by amount and by source.

(f) The categories of individuals or families to whom these social services are to be provided including any categories based on the income of individuals or their families.

(g) A description of each social service showing the total numbers of persons and families in need of the social service, the amount of assessed need to be met, and the numbers of persons or families to be served by the resources allocated to that social service.

(h) A description of the program coordination methods and techniques utilized not only by counties but at the state level as well.

(i) A summary of the monitoring and reporting activities taking place in each of the counties.

(j) An evaluation of the effectiveness of the prior year's performance in relation to the measurable goals and objectives of social services for that year, including an evaluation of social services programs in each county showing the extent to which the numbers of persons and families proposed to be served by each category of social service were actually served, and also the direct cost per unit and the administrative cost per unit of social service for each category. The results of these evaluations shall be used to identify needs and establish priorities for the coming year.

(k) A description of the public review process whereby the state plan and the counties' plans received public scrutiny and public comments. This description shall include the following:

(1) A count of organizations, groups and individuals commenting on the plan.

(2) A summary of the substantive comments concerning various parts of the plan and the changes made in response to such comments.

(3) An explanation of why substantive comments which did not result in changes in the plan were not accepted.

(*l*) A description of training programs for persons who provide or administer "social services" included in the plan, which shall include, but is not limited to, numbers of persons to be trained, types of training required, the basis of need for such training, and the amount of funds required to meet training needs.

The state plan shall be organized into a format which describes for each social service the information specified in the aforementioned requirements, excluding subdivision (k), both for the state as a whole

and for each county in which that service is to be provided.

10134. The department shall be the state agency responsible for preparing the state plan. The department shall be responsible for doing the following:

(a) Coordinating state activities related to this chapter.

(b) Preparing a state resources inventory.

(c) Preparing the prediction of program utilization.

(d) Providing technical assistance when requested by local agencies in the areas of need assessment, resource identification, plan and program development, evaluation design and other areas necessary to the development and improvement of a planning system.

(e) Developing minimal acceptable standards for:

(1) Needs assessment;

(2) Resource identification and inventory;

(3) Program definitions and classification system;

(4) Delivery of services;

(5) Coordination between services providers; and

(6) Developing and reporting caseload data, program costs and unit costs prepared in accordance with subdivision (k) of Section 10131.

The purpose of these standards is to assure uniformity in the planning, delivery and reporting of services programs. The Office of Planning and Research shall be consulted to the maximum extent feasible in the development of such standards.

(f) Develop a system and methods by which the effectiveness of the various programs can be evaluated, including guidelines to be used by counties to assure uniformity in the reporting of evaluation results by counties.

(g) Annually establish statewide priorities.

(h) Annually distribute to the various counties the planning document which shall include the minimum acceptable standards with which the counties can commence the planning timetable.

(i) Determining minimal services and program standards in accordance with applicable state and federal laws and regulations.

(j) Reviewing and approving local plans and informing the counties and the Health and Welfare Agency of its decisions.

(k) Affording the designated local planning agency and opportunity for hearing if its local plan is disapproved.

(*l*) Preparing a county plan in lieu of the designated county planning agency pursuant to Section 10140.

(m) Monitoring local program delivery to determine compliance with statutory standards for health and safety and adherence to the minimal standards of acceptability for programs and services outlined in the plan.

(n) Receiving county plans and disseminating them to appropriate state departments and offices in order that these departments and offices may carry out their responsibilities pursuant to Section 10121.

(o) Incorporating elements of all approved local plans and relevant materials received from state departments and offices administering those social services programs covered by this chapter into a comprehensive state plan.

(p) Ensuring that all services covered by the plan are coordinated and integrated and that all elements of the plan are coordinated with the Department of Finance to ensure that they are supportive of and compatible with the budget proposed for the fiscal year in which the plan shall be in effect.

(q) Allocating, for the purposes of planning, federal and state social service funds administered by the state for counties based upon state-approved county plans.

(r) Ensuring that any public funds disbursed under this chapter to any public or private agency shall be in accordance with an approved county plan, and with applicable federal and state laws and regulations.

10135. The state plan and each county plan shall include a coordination statement which describes the methods of coordinating the planning and delivery of social services with the following:

(a) Programs funded under Title IV-A, Title IV-B, Title IV-C, Title XVI, and Title XIX, of the Social Security Act.

(b) Related human service programs such as programs for the aged, children, developmentally disabled, alcohol and drug abusers, and programs in correction, public education, vocational rehabilitation, mental health, housing, medical and public health and employment and manpower.

(c) Public or private human services programs in the county funded through sources other than those described in Section 10110.

If there is no coordination with the programs described in this section, the statement shall include an explanation as to why. These statements of coordination shall report all agencies participating in the planning process, including agencies such as United Way, city agencies, community action agencies and client-advocacy groups. The coordination statements shall describe the extent to which each agency participated in the planning process, and how services provided by and clients served by each agency are coordinated with services provided under the plan. The statements shall also describe how the coordination information was or was not used in development of the plan.

As a condition of participation in the planning process, public and private agencies shall provide to the county such information as may be necessary to facilitate the county's efforts to identify and coordinate resources and services, to carry out the county's planning requirements and to complete the county plan.

10136. A copy of the coordination statement prepared by each county shall be forwarded to each agency referenced in the county statement of coordination for review and comment by that agency. The coordination statements shall be signed by an authorized representative of the agency responding to the plan. In the event

that the authorized representative disagrees with the coordination statement, he shall so state. The signed coordination statement shall be returned to the county within 20 days from date of receipt. A summary of the comments received shall be included in the coordination statement of the county plan submitted to the state. In the event that a signed coordination statement is not returned to the county, the summary shall so state.

10137. (a) State departments and offices responsible for social services programs as defined by this part at the county level, shall provide information on program activities within a county to the appropriate county to facilitate the county's planning efforts and the completion of a county plan.

(b) Cities providing social services within a county shall submit to the county such information as may be necessary to facilitate the county's planning efforts and the completion of a county plan.

(c) Public and private agencies participating in the planning process pursuant to Section 10135 and 10136, shall submit to the county such information as may be necessary to facilitate the county's efforts to coordinate resources and services, to carry out the county's planning requirements and to complete a county plan.

10138. The department shall develop the state plan so that it coordinates with other plans developed at the state level for the related human services programs cited in subdivisions (a) and (b) of Section 10135. This coordination shall be undertaken to ensure that all resources are identified and made available to meet service needs. State departments and offices responsible for these other state plans shall cooperate with the department to the full extent necessary in order for the department to carry out the provisions of this section. Where this cooperation does not occur, the department shall so indicate in the coordination statement required pursuant to Section 10135.

10139. In preparing their plans, counties and the state may utilize as a primary resource in support of compatible elements of their plan those resources made available through the Medi-Cal Act (Chapter 7 (commencing with Section 14000), Part 3 of this division) and Title XIX of the Social Security Act, consistent with federal and state laws and regulations.

10140. Those jurisdictions whose needs assessments, resources inventories, citizen participation, local planning process or evaluation are judged inadequate by the department shall have their plans subject to revision by the director. Jurisdictions so judged shall be notified within five days of such decision. Jurisdictions wishing to appeal the decision must file a request for review by the Secretary of the State Health and Welfare Agency within 10 days of receipt of a notice of the decision from the department.

The Secretary of the State Health and Welfare Agency shall in response to an appeal, hold a hearing, at which time the jurisdiction shall show cause why the needs assessment, resources inventory, citizen participation, planning process and evaluation should be

accepted. The secretary shall consider the case on the record established at the hearing and, within five days, shall render findings and a decision.

If the secretary determines that a jurisdiction has failed to meet the criteria for acceptable needs assessment, resources inventory, citizen participation, evaluation, and planning process, the jurisdiction shall revise the plan in accordance with the secretary's decision. In the event the jurisdiction fails to comply with this decision, the director shall prepare, on behalf of the jurisdiction, a proposed plan allocating state and federal social service resources and shall declare that the plan is a state-prepared county plan.

10141. The director shall designate a planning unit within an office or division under his administration to carry out the department's responsibilities with respect to the requirements imposed by this chapter. This unit shall coordinate the functions and activities with the planning and program development responsibilities of other state departments and offices administering services covered by this chapter. This planning unit shall ensure that the objectives of the state plan as specified in Section 10120 are being met, and to ensure that state funds and state-administered federal funds are effectively coordinated to maximize full utilization for social services provided under the plan. Nothing in this section shall be construed to limit or reduce the functions of either the Office of Child Development within the Department of Education, or the Office of Family Planning established pursuant to Chapter 8 (commencing with Section 14500), Part 3 of this division.

Nothing in this part shall be construed to limit or reduce the authority, functions or responsibilities of the State Superintendent of Public Instruction.

10142. (a) A county may request a waiver from any requirement or requirements of this part in order to pursue innovative planning or delivery methods, or development of cost-saving mechanisms. Waiver requests for this purpose must include a statement of the applicant's activities affected by existing requirements, identification of the decreased program efficiencies or effectiveness resulting from compliance with existing requirements, identification of the probable effects of granting a waiver, and assurance of program compliance.

The waiver may be granted by the director of the department or office legally responsible on a state level for administering the program or programs to which the waiver will apply, upon substantiation of the county's request, which shall be submitted no later than 90 days prior to the beginning of the state's annual planning cycle. The director of such department or office shall render his decision following consultation with the Director of Social Services.

(b) In order to encourage the development of a multipurpose, comprehensive, or integrated human services planning process, the director is authorized to test in one, two, or three counties the

feasibility of such a plan. The director is authorized to secure all necessary waivers of federal and state law, in order to pursue within the test counties the development of a single plan to satisfy the requirements of any other human service program cited in subdivision (a) or (b) of Section 10135, in combination with those covered by this part.

Application for necessary state waivers shall be made by the director to the director of the department or office legally responsible on a state level for administering the program or programs not covered by this part. Necessary federal waivers shall be secured through the processes established by federal legislation. Waiver requests for this purpose shall include a statement of the activities affected by existing planning requirements, identification of the probable effects of granting waiver, and assurance of program compliance. The waiver may be granted by the director of such department or office upon substantiation of the director's request.

Within four years of the effective date of this part, the director shall prepare and submit to the Legislature a report which assesses the effectiveness of this approach to a single comprehensive planning process, recommends whether it should be extended on a statewide basis, and describes what steps would be necessary to implement such a process statewide.

10143. Nothing in this chapter shall be construed to preclude either the counties or the state from contracting with proprietary or nonproprietary agencies to carry out any or all of the services or activities described in the state plan.

10144. The Office of Planning and Research shall have the responsibility to do the following:

(a) Make recommendations regarding the development of minimal standards of acceptability for county planning procedures including, but not limited to, needs assessments, resources inventories, citizen participation and evaluation.

(b) Provide technical assistance when so requested by the department.

(c) Review the final state social services plan prepared according to this chapter and make appropriate recommendations to the Governor and the Legislature.

10145. The Department of Finance shall conduct an audit of the state plan and the planning processes required by this part. The purpose of this audit shall be twofold:

(a) To measure the degree to which the plan and the planning process meets the objectives specified in Section 10120.

(b) To measure the degree to which the costs associated with the plan and its processes are offset by increased funds being made available to social services through improved coordination and utilization of state and county resources available for social services programs.

The audit shall commence with the initial implementation of the planning processes carried out pursuant to this part and continue

until one year following full implementation.

10146. The Department of Finance shall submit reports to the Speaker of the Assembly and Senate Rules Committee detailing the progress in implementing the provisions of this part and a final report containing recommendations for continuing and improving these provisions. Progress reports shall be submitted at the conclusion of each fiscal year in which partial implementation of the state plan requirements is in effect. A final report shall be submitted at the conclusion of the first fiscal year in which full implementation of the state plan requirements is in effect.

CHAPTER 3. INTERIM PLANNING TASK FORCE

10153. The director shall establish an interim social services planning task force to advise the director during the three year phase-in period for this part. The task force shall consist of the following members:

(a) Eleven consumers of services provided under the state's social services plan, three of whom shall be selected by the three counties determined pursuant to subdivision (c).

(b) Two persons representing nongovernmental agencies directly providing services under the plan.

(c) Three representatives from county governments consisting of one representative from each of three counties one of which shall be a rural county; the three counties to be designated by the County Supervisors Association of California and the representative from each designated county to be appointed by the county's board of supervisors.

(d) One representative from a city or an organization representing cities in the state.

(e) One representative from a regional councils of government operating in the state.

(f) One representative from a statewide community service organization.

(g) One representative from a legal advocacy group.

(h) One representative from a social worker's organization.

(i) One representative designated by the State Superintendent of Public Instruction.

Appointments made by the director pursuant to subdivisions (a) and (b) of this section shall be limited to no more than two members representing a specific service, with appropriate representation from services to the aged, blind, disabled and to children.

10154. Members shall be appointed to serve for a term of three years. The task force shall select by majority vote a chairperson from among its members.

10155. The task force shall advise and assist the director and the department with respect to the following:

(a) Developing minimal standards used to measure the adequacy of the counties' plans relating to needs assessment, resource

assessment, citizen participation, and evaluation.

(b) Developing standards and criteria used to determine if a county can plan less frequently than on an annual basis.

(c) Developing the steps to full implementation of the planning process which the counties must carry out during the three year phase-in period.

10156. The director shall respond in writing to all recommendations approved by a majority of the task force within 30 days from the date that such recommendations are submitted by the committee to the department. In this response, the director shall indicate an acceptance or rejection and the course of action he intends to pursue with respect to each recommendation.

In the event that a majority of the task force is in disagreement with decisions or actions taken by the director or the department, the director shall make in written form a public finding of these disagreements which shall explain the reasons why the decision or action was taken, present the decision or action the task force recommends, and explain the reasons for the task force's recommendations.

10157. The task force shall meet as often as is necessary to carry out its responsibilities and functions, but no less frequently than once every two months. The task force shall terminate upon commencement of the first planning cycle in full compliance with the provisions of this part on January 1, 1983.

10158. This chapter shall remain operative only until January 1, 1983, and on such date is repealed.

CHAPTER 4. PLANNING CYCLE

10170. The planning cycle required for the development of each annual county and state plan prepared pursuant to the provisions of this part shall be in accordance with the sequence of dates and events as specified by the director. The planning cycle shall be so organized and scheduled as to make possible the development of the annual state plan in coordination with the development of the corresponding annual state budget. Such coordination shall ensure that the proposed state plan and the proposed state budget are compatible with and supportive of each other.

10171. At the time of the submission of the proposed state budget, the Governor shall submit with his proposed budget the prediction of program utilization. The Legislative Analyst shall support legislative review of the state plan by completing an analysis of the prediction of program utilization in conjunction with his analysis of the corresponding proposed state budget.

10172. The prediction of program utilization shall furnish the Legislature with a description of the programs and services proposed be provided under provisions of the state plan including new programs and services for which there is a compelling need, and shall also provide the basis for determining the resources to be allocated

to such programs and services. The basis for the prediction of program utilization shall be the state plan developed in accordance with the requirements of this part. The prediction of program utilization shall, for each program and services described, provide the following:

(a) The predicted number of persons or families in need of the program or service.

(b) The recommended priorities among the various programs and services and among the persons and families in need thereof.

(c) The recommended allocation of the base year planning amount toward meeting the specified need in accordance with the proposed priorities, and in accordance with county allocations of the base year planning amount (i.e., the initial allocation) as determined pursuant to Sections 10173 and 10174 of this chapter.

(d) Identification of other sources of funds in excess of the usual required matching funds which are available for or are committed to resolving all or a portion of the specified need, and the recommended allocation of these other resources in accordance with proposed priorities.

(e) The additional resources, if any, required to meet the level of services recommended be provided during the forthcoming budget year.

(f) The amount of resources, if any, required to meet the program and services needs not otherwise accounted for by items (c) through (e) of this section.

(g) A summary of accomplishments in social services program coordination and integration.

(h) A summary of the degree and method of public involvement in the planning process.

Information provided in items (a) through (e) above shall be described for the state as a whole and for each county.

10173. Notwithstanding Article 4 (commencing with Section 15150), Chapter 9, Part 3 of this division, state and federal social service funds, except those required by the department for administration of the social services program, shall for planning purposes be allocated pursuant to this section. Immediately prior to each planning cycle, the director shall notify counties of the initial allocation of state funds and state-administered federal funds the county is to receive for the fiscal year for which the plan is being prepared. The initial allocation, in the aggregate, shall consist of an amount equal to the federal and state funds provided social services programs covered by this chapter during fiscal year 1977–78. The amount of each county's share of the initial allocation shall be determined in accordance with the allocation formula developed pursuant to Section 10174.

Any additional funds appropriated by the State Legislature or provided by the federal government on behalf of the social services programs shall be allocated to counties on the basis of needs demonstrated in approved county plans submitted pursuant to this

part and in accordance with procedures specified in Section 10134 consistent with applicable federal and state laws and regulations.

Excluded from the latter allocation process are the additional funds appropriated by the Legislature solely for the purpose of meeting cost-of-living increases. These funds shall be allocated in an amount equivalent to the proportionate increase for cost-of-living adjustment specified by the Legislature.

10174. The director shall develop and implement the allocation formula referred to in Section 10146. He shall seek the advice and assistance of the counties in development of the formula. The proposed formula shall become effective not sooner than 30 days after it has been submitted to the Chairman of the Joint Legislative Budget Committee. The proposed formula submitted to the chairman shall be accompanied by a statement from the County Supervisors Association of California which expresses the counties' position on the formula.

10175. The first planning cycle shall begin on January 1, 1979. Counties shall be permitted a period not to exceed three years to phase into full compliance with the provisions of this chapter. The director shall specify the series of steps in sequence which the counties must carry out in order to achieve full implementation by the end of the three year phase-in period. Each county shall assess its capacity to implement the provisions of this chapter and shall notify the director at what level it will commence planning.

County plans for each of these three years shall, at a minimum, include those components specified by the director. During the phase-in period, counties and the state shall submit a new plan each year until full implementation is achieved.

10176. A county may, at its option, plan less frequently than on an annual basis if it qualifies in accordance with this section. Once a county has fully implemented the comprehensive planning processes required by this part, any annual plan submitted thereafter which meets standards and criteria established by the director may be used as the county's annual plan for two consecutive fiscal years following the fiscal year for which the plan was initially prepared. Standards and criteria developed by the director for the purposes of this section shall establish a level of acceptability which exceed minimal planning standards and which serve to reward those counties making a significant contribution toward meeting the objectives of the planning process.

10177. At least 90 days prior to the beginning of the state's annual planning cycle, each county shall submit notice to the director of its intention to revise its plan and the reasons for such revision or show cause why its present operational plan should be continued without revision if such plan qualifies pursuant to Section 10173.

If the county elects to continue its plan into the subsequent year without revision, it shall make public its decision and upon this notice any organization or group, as defined by the director, may appeal to the county board of supervisors to show cause why conditions within

the county warrant the undertaking of a new comprehensive planning process sooner than the expiration of a three-year plan.

If the appeal is denied by the county board of supervisors, the organization or group may file a request for review by the director. The director may in response to an appeal consider written evidence and render a decision, or the director may hold a hearing, at which time the jurisdiction and petitioner may present evidence on the appropriateness of the current operational plan. If the director determines that findings warrant a new comprehensive planning process, the county shall initiate such a process in accord with the upcoming state annual planning cycle.

10178. At such times as are necessary, a county may amend its plan subject to state approval and in keeping with federal regulations pertaining to plan amendments. Any amendment to a county plan shall be prepared by the county's designated planning body and, after approval by the director, shall be published and made generally available to the public by the county board of supervisors.

Following initial publication, a period of at least 30 days shall be reserved for public review and comment. The effective date of an amendment shall be no earlier than the date of publication of the final amendment.

10179. (a) The state plan shall be amended whenever necessary to reflect new or revised federal statutes or regulations, or material change in any state law, organization, policy or state agency operation.

(b) The county plan shall be amended whenever necessary to reflect new or revised state statutes or regulations, or material change in any county law, organization, policy or county agency operation.

10180. Each year the department shall update the plan detailing the current status of all service and planning mandates as enacted during the prior year and the current status of conditions of need as described in county plans and as documented by the evaluation procedures called for in subdivision (j) of Section 10133.

The plan shall also be used as the basis for the Comprehensive Annual Services Program Plan as required under amendments of Title XX of the Social Security Act.

10181. If the United States Department of Health, Education and Welfare issues a formal ruling that any provision of this part cannot be given effect without causing this state's plan to be out of conformity with federal requirements, the director shall, pursuant to Section 204 of the Intergovernmental Cooperation Act of 1968 and other applicable federal laws and regulations, request such waivers as are necessary in order that the state plan be in conformity with all provisions of this part and also qualify for federal reimbursement.

SEC. 2. Section 8214 is added to the Education Code, to read:

8214. Funding of child care services under this division is subject to the provisions of Part 1.5 (commencing with Section 10100), Division 9 of the Welfare and Institutions Code.

SEC. 3. Section 65035.1 is added to the Government Code, to read:

65035.1. Nothing in Section 65035 shall prevent the Office of Planning and Research from complying fully with the provisions of Part 1.5 (commencing with Section 10100), Division 9 of the Welfare and Institutions Code relating to social services.

SEC. 4. Section 10053.25 is added to the Welfare and Institutions Code, to read:

10053.25. Funding of Sections 10053 and 10053.2 is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division. The level of funding for Sections 10053.2 and 10053.3 shall not fall below the total amount appropriated for family planning services in the 1977–78 fiscal year.

SEC. 5. Section 10618 is added to the Welfare and Institutions Code, to read:

10618. Funding of Section 10617 is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 6. Section 11200.5 is added to the Welfare and Institutions Code, to read:

11200.5. Funding for social services under this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 7. Section 12254 is added to the Welfare and Institutions Code, to read:

12254. Funding of this article is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 8. Section 12308 is added to the Welfare and Institutions Code, to read:

12308. Funding of this article is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 9. Section 16513 is added to the Welfare and Institutions Code, to read:

16513. Funding of this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 10. Section 18254 is added to the Welfare and Institutions Code, to read:

18254. Funding of this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 11. Section 18280.5 is added to the Welfare and Institutions Code, to read:

18280.5. Funding of this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 12. Section 18950.5 is added to the Welfare and Institutions Code, to read:

18950.5. Funding of this chapter is subject to the provisions of Part 1.5 (commencing with Section 10100) of this division.

SEC. 13. No appropriation is made by this act. If the cost study required in Section 10145 of the Welfare and Institutions Code, as added by this act, determines that there are local costs which are in

excess of the costs that would otherwise be incurred by local agencies in the development of a Title XX annual social services plan as required without regard to this act, and which are in excess of any savings accruing, it is the intent of the Legislature to fund such costs in the normal budgeting process.

SEC. 14. The provisions of this act shall remain operative only until the date which is one full year following the date on which the Department of Finance submits to the Legislature its final report as required by Section 10146 of the Welfare and Institutions Code, as added by this act, and on such date the provisions of this act are repealed unless the Legislature extends or deletes such date.

CHAPTER 1236

An act to amend Section 2152 of, and to repeal Section 2153 of, the Business and Professions Code, relating to acupuncture.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 2152 of the Business and Professions Code is amended to read:

2152. The board shall issue a certificate to practice acupuncture to any person who makes application to the board and meets the following requirements:

(a) Is 18 years of age or over.

(b) Furnishes satisfactory testimonials of good moral character.

(c) Furnishes satisfactory evidence of completion of a course in acupuncture which shall be approved by the board or furnishes satisfactory evidence of two years' experience in performing acupuncture.

(d) Successfully passes an examination administered by the board which tests the applicant's ability, competency, and knowledge of the practice of acupuncture. The examination shall include a practical examination of the skills required to competently practice acupuncture.

SEC. 2. Section 2153 of the Business and Professions Code is repealed.

CHAPTER 1237

An act to amend Sections 2150.3 and 2151.9 of, and to add Article 3.6 (commencing with Section 2160) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 2150.3 of the Business and Professions Code is amended to read:

2150.3. As used in this article and in Article 3.6 (commencing with Section 2160), unless the context otherwise requires:

(a) "Committee" means the Acupuncture Advisory Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(c) "Person" means any individual, organization or corporate body except that only individuals can be certified under this article.

(d) An "acupuncturist" is a person who practices acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

SEC. 2. Section 2151.9 of the Business and Professions Code is amended to read:

2151.9. The Board of Medical Quality Assurance shall administer the provisions of this article and may adopt such rules and regulations as may be necessary to effectuate the provisions of this article.

SEC. 3. Article 3.6 (commencing with Section 2160) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 3.6. Acupuncture Corporations

2160. An acupuncture corporation is a corporation which is registered with the board with respect to corporations rendering acupuncture services and has a currently effective certificate of registration from the board pursuant to the Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable provisions of law, including regulations, an acupuncture corporation is entitled to practice acupuncture. With respect to an acupuncture corporation, the governmental agency referred to in the Professional Corporation Act is the Board of Medical Quality Assurance with reference to corporations rendering acupuncture services.

2160.1. An applicant for registration as an acupuncture corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation, including, but not limited to, a copy of its articles of incorporation, certified by the Secretary of State; a copy of its bylaws, certified by the secretary of the corporation; the name and address of the corporation; the names and addresses of its officers, directors, shareholders, and employees who will render professional services; and the address of each office. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that each officer, director, shareholder and employee who will render professional services is a licensed person as defined in the Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with applicable provisions of law, including regulations, the board shall, upon payment of the registration fee in such amount as it may determine, issue a certificate of registration. The application shall be signed and verified by an officer of the corporation. The fee for filing such an application shall be fixed by the board.

2160.2. Within such time as the board may by regulation provide, an acupuncture corporation shall report in writing to the board any change in directors, officers, or employees performing professional services, as well as in share ownership and amendments to its articles of incorporation and bylaws. The fee for filing such a report shall be fixed by the board.

2160.3. Each acupuncture corporation shall file with the board annually and at such other times as the board may require a report containing such information pertaining to qualification and compliance with the statutes, rules and regulations of the board as the board may determine. The fee for filing such a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

2160.4. The name of an acupuncture corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders or of persons who were associated with a predecessor person, partnership, corporation or other organization and whose name or names appear in the name of such predecessor organization, and shall include the word "acupuncture" and the word "corporation", or wording or abbreviations denoting corporate existence.

2160.5. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of an acupuncture corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined by Section 13401 of the Corporations Code.

2160.6. The income of an acupuncture corporation attributable to

professional services rendered while a shareholder is a disqualified person (as defined in the Professional Corporation Act) shall not in any manner accrue to the benefit of such shareholder or his shares in the acupuncture corporation.

2160.7. An acupuncture corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under provision of law. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a certificate under Section 2152 or 2153. The board shall have the same powers of suspension, revocation and discipline against an acupuncture corporation as are now or hereafter authorized by Section 2157.4, or by any other similar statute against individual licensees, provided, however, that proceedings against an acupuncture corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

2160.8. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including, but not limited to, rules and regulations requiring (a) that the articles of incorporation or bylaws of an acupuncture corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in the Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such rules and regulations may provide, and (b) that an acupuncture corporation as a condition of obtaining a certificate pursuant to the Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

2160.9. Notwithstanding any other provision of law, the board may delegate to its executive secretary or other official or employee its authority under Section 2160.1 to review and approve applications for registration as acupuncture corporations and to issue certificates of registration.

2160.10. The provisions of Sections 2158 and 2158.1 expressly are made applicable to this article.

CHAPTER 1238

An act to amend Section 14132 of the Welfare and Institutions Code, relating to health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered, subject to utilization controls.

(d) Purchase of prescribed drugs is covered, subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization

controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered, subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for

patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which, are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are

covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an

outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an

inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services

program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric. chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which, are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock

conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization

controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the

beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and

physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to

utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an

outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician

services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 2. It is the intent of the Legislature that if this bill and Assembly Bill No. 1096, Assembly Bill No. 2960, Assembly Bill No. 2961 are chaptered and amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 1096 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2960 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 1096, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 1096 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2960 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 2960 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2960, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.2 of this act. Therefore, if Assembly Bill No. 2960

is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.2 shall be operative and Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2961 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2961, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.3 of this act. Therefore, if Assembly Bill No. 2961 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, Section 1.3 of this act shall be operative and Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(d) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2960 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2961 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2960, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.4 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2960 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2961 is not chaptered or as chaptered does not amend that section, Section 1.4 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this act shall not become operative.

(e) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2961, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.5 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this act shall not become operative.

(f) If this bill, Assembly Bill No. 2960 and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2960 and Assembly Bill No. 2961, the amendments proposed by all three bills shall be given effect and

incorporated in Section 14132 in the form set forth in Section 1.6 of this act. Therefore, if Assembly Bill No. 2960 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, Section 1.6 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this act shall not become operative.

(g) If this bill, Assembly Bill No. 1096, Assembly Bill No. 2960, and Assembly Bill No. 2961 are all chaptered, and all four amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 1096, Assembly Bill No. 2960, and Assembly Bill No. 2961, the amendments proposed by all four bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.7 of this act. Therefore, if Assembly Bill No. 1096, Assembly Bill No. 2960, and Assembly Bill No. 2961 are chaptered before this bill and all four bills amend Section 14132 of the Welfare and Institutions Code, Section 1.7 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this act shall not become operative.

CHAPTER 1239

An act to amend Sections 2150.3, 2150.7, 2151, 2152, 2154, 2158.2, 2158.5, and 2158.8 of, to add Sections 2150.8, 2152.1, 2152.5, 2152.7, 2153.5, 2157.7, and 2158.9 to, the Business and Professions Code, relating to acupuncture, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 2150.3 of the Business and Professions Code is amended to read:

2150.3. As used in this article, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Advisory Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(c) "Person" means any individual, organization or corporate body except that only individuals can be certified under this article.

(d) An "acupuncturist" is a person who practices acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

SEC. 1.4. Section 2150.3 of the Business and Professions Code is

amended to read:

2150.3. As used in this article and in Article 3.6 (commencing with Section 2160), unless the context otherwise requires:

(a) "Committee" means the Acupuncture Advisory Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(c) "Person" means any individual, organization or corporate body except that only individuals can be certified under this article.

(d) An "acupuncturist" is a person who practices acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body.

SEC. 1.5. Section 2150.7 of the Business and Professions Code is amended to read:

2150.7. The Governor shall appoint an 11-member Acupuncture Advisory Committee to advise the board on implementing the provisions of this article.

SEC. 2. Section 2150.8 is added to the Business and Professions Code, to read:

2150.8. Each member of the committee shall be appointed by the Governor for a term of three years. The members in office on the effective date of this section shall continue in office until the expiration of their appointed terms.

Upon the appointment of the additional members provided by the amendment of this section at the 1977–78 Regular Session of the Legislature, one public member and three existing members shall be appointed for a term of one year, one public member and two existing members shall be appointed for a term of two years, and two public members and two existing members shall be appointed for terms of three years. Thereafter the terms of all members shall be for three years.

SEC. 3. Section 2151 of the Business and Professions Code is amended to read:

2151. Five members of the committee shall be acupuncturists with 10 years' experience in acupuncture and not possessed of a physicians' and surgeons' certificate, two members of the committee shall be acupuncturists with two years' experience in acupuncture and possessing a physicians' and surgeons' certificate, and four members shall be public members.

Each member of the committee shall receive a per diem and expenses as provided in Section 103.

SEC. 3.5. Section 2152 of the Business and Professions Code is amended to read:

2152. The board shall issue a certificate to practice acupuncture to any person who makes application to the board and meets the following requirements:

(a) Is 18 years of age or over.

(b) Furnishes satisfactory evidence of completion of a course in acupuncture which shall be approved by the board or furnishes satisfactory evidence of three years' experience in performing acupuncture.

(c) Successfully passes an examination administered by the board which tests the applicant's ability, compentency, and knowledge of the practice of acupuncture.

SEC. 3.6. Section 2152 of the Business and Professions Code is amended to read:

2152. The board shall issue a certificate to practice acupuncture to any person who makes application to the board and meets the following requirements:

(a) Is 18 years of age or over.

(b) Furnishes satisfactory evidence of completion of a course in acupuncture which shall be approved by the board or furnishes satisfactory evidence of three years' experience in performing acupuncture.

(c) Successfully passes an examination administered by the board which tests the applicant's ability, competency, and knowledge of the practice of acupuncture. The examination shall include a practical examination of the skills required to competently practice acupuncture.

SEC. 4. Section 2152.1 is added to the Business and Professions Code, to read:

2152.1. The board shall establish standards for a course of training in acupuncture, including provisions for a tutorial or apprenticeship program, completion of which will satisfy the course requirements of Section 2152. In providing for tutorial or apprenticeship, the board shall insure that credit is granted for relevant prior training and experience and that credit is not denied for training or experience acquired prior to the effective date of amendments made during the 1978 legislative session, when such training or experience otherwise meets the standards set by the board.

SEC. 5. Section 2152.5 is added to the Business and Professions Code, to read:

2152.5. (a) In approving programs for certification under this article, the board may approve programs of apprenticeship served under an approved supervising certified acupuncturist.

(b) A certified acupuncturist shall be approved to supervise acupuncturists' apprentices, provided he or she meets the following conditions:

(1) Is certified to practice acupuncture in California and such certification has not been suspended or revoked.

(2) Has filed an application with the board.

(3) Does not train or employ more than two acupuncture apprentices at any one time.

(4) Files with the board, the name of each apprentice being trained or employed.

SEC. 6. Section 2152.7 is added to the Business and Professions

Code, to read:

2152.7. The board may adopt such rules and regulations as are necessary for the implementation of an acupuncturist apprentice program in this state.

SEC. 7. Section 2153.5 is added to the Business and Professions Code, to read:

2153.5. The board may establish standards for continuing education for acupuncturists.

SEC. 7.5. Section 2154 of the Business and Professions Code is amended to read:

2154. Any person who practices acupuncture or holds himself or herself out as practicing acupuncture, unless he or she possesses an acupuncturist's certificate, or is participating in an approved training program in acupuncture, as provided for in this article, is guilty of a misdemeanor. Whenever any person other than a certified acupuncturist has engaged in an act or practice which constitutes an offense against this article, a superior court of a county on application of the board may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board may commence action in such superior court under the provisions of this section on its own motion.

SEC. 8. Section 2157.7 is added to the Business and Professions Code, to read:

2157.7. The holder of a certificate issued pursuant to this article shall post such certificate in a conspicuous location in his office or place of business at all times.

If a certificate holder practices at more than one location he shall obtain a duplicate certificate for each additional location and post such certificate at each such location.

The fee for a duplicate certificate shall be five dollars ($5).

SEC. 9. Section 2158.2 of the Business and Professions Code is amended to read:

2158.2. The amount of the fees prescribed by the provisions of this article is that fixed by the following schedule:

(1) The application fee and renewal fee shall be fixed by the board in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the board which relate to the functions authorized by this article.

(2) The delinquency fee shall be ten dollars ($10).

(3) The reexamination fee shall be fixed by the board in an amount which does not exceed seventy-five dollars ($75).

(4) The application fee to supervise an apprentice acupuncturist shall be fifty dollars ($50).

(5) The annual renewal fee to supervise an apprentice acupuncturist shall be twenty-five dollars ($25).

(6) The application fee to become an apprentice acupuncturist shall be ten dollars ($10).

(7) The annual renewal fee for an apprentice acupuncturist shall be ten dollars ($10).

SEC. 9.5. Section 2158.5 of the Business and Professions Code is amended to read:

2158.5. To renew an unexpired certificate, the holder, on or before December 31st of each even-numbered year, shall apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this article.

SEC. 10. Section 2158.8 of the Business and Professions Code is amended to read:

2158.8. A person who fails to renew his certificate within five years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but such person may apply for and obtain a new certificate if he meets the requirements of this article.

The board may require a person who fails to renew his certificate within five years to demonstrate skills in acupuncture in addition to any examination requirements of this article.

SEC. 10.5. Section 2158.9 is added to the Business and Professions Code, to read:

2158.9. If an application for a certificate is denied or withdrawn, the board may retain 10 percent of the application fee to cover administrative costs in processing such application.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 12. It is the intent of the Legislature, if this bill and Senate Bill No. 1488 are both chaptered and become effective January 1, 1979, both bills amend Section 2150.3 of the Business and Professions Code, and this bill is chaptered after Senate Bill No. 1488, that the amendments to Section 2150.3 proposed by both bills be given effect and incorporated in Section 2150.3 in the form set forth in Section 1.4 of this act. Therefore, Section 1.4 of this act shall become operative only if this bill and Senate Bill No. 1488 are both chaptered and become effective January 1, 1979, both amend Section 2150.3, and this bill is chaptered after Senate Bill No. 1488, in which case Section 1 of this act shall not become operative.

SEC. 13. It is the intent of the Legislature, if this bill and Assembly Bill No. 3105 are both chaptered and become effective January 1, 1979, both bills amend Section 2152 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 3105, that the amendments to Section 2152 proposed by both bills be given effect and incorporated in Section 2152 in the form set forth in Section 3.6 of this act. Therefore, Section 3.6 of this act shall

become operative only if this bill and Assembly Bill No. 3105 are both chaptered and become effective January 1, 1979, both amend Section 2152, and this bill is chaptered after Assembly Bill No. 3105, in which case Section 3.5 of this act shall not become operative.

CHAPTER 1240

An act to amend Sections 103, 1771, 1777, 1778, 1779, 1781, 1782, 1783, 1784, 1785, and 1789 of, to amend and renumber Section 1790 of, to add Sections 1770.5, 1770.7, 1771.2, 1771.3, 1771.4, 1771.5, 1771.6, 1771.8, 1774.4, 1779.3, 1779.6, 1779.8, 1782.5, and 1789.2 to, to add an article heading immediately preceding Section 1770 of, and to add Article 2 (commencing with Section 1790) and Article 3 (commencing with Section 1791) to, Chapter 10 of Division 2 of, the Health and Safety Code, relating to life care contracts.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 103 of the Health and Safety Code is amended to read:

103. The State Department of Health Services succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health as they relate to public health, licensing and certification of health facilities, except community care facility licensing to which the State Department of Social Services succeeds, and any other functions performed by Division of Public Health of the State Department of Health on the operative date of the statute amending this section at the 1977 portion of the 1977–78 Regular Session of the Legislature, unless such function is transferred to a different state agency or department as a result of another provision of the statutes of the 1977–78 Regular Session of the Legislature amending this section.

"State department," "department," or "State Department of Health" as used in this code, except in Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1; Part 1.5 (commencing with Section 437) of Division 1; Part 3 (commencing with Section 1175) of Division 1; Chapter 2.2 (commencing with Section 1340) of Division 2; Chapter 10 (commencing with Section 1770) of Division 2; and Part 2.5 (commencing with Section 34700) of Division 24, means the State Department of Health Services.

The Office of Statewide Health Planning and Development shall assume the functions and responsibilities of the Facilities Construction Unit of the former State Department of Health, including, but not limited to, those functions and responsibilities performed pursuant to the following provisions of law, Chapter 3

(commencing with Section 430) and Chapter 4 (commencing with Section 436) of Part 1 of Division 1; Section 1260; Section 13113; and Division 12.5 (commencing with Section 15000) of Part 4 of Division 9 of the Welfare and Institutions Code.

SEC. 1.5. An article heading is added immediately preceding Section 1770 of the Health and Safety Code, to read:

Article 1. Supervision of Life Care Contracts

SEC. 2. Section 1770.5 is added to the Health and Safety Code, to read:

1770.5. (a) The Legislature finds and declares that abrupt and involuntary transfer of frail, elderly residents from one home to another can and does have tragic consequences. Numerous studies have shown that such forced movement often results in the death of the transferee and almost always causes depression or regressive behavior. Called "transfer trauma," the cause of this reaction has been variously ascribed to the loss of a familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, and the major loss of visits from friends and relatives who may be unable to reach the new facility. Involuntary transfer may occur when a provider of services under a life care contract has been found to be insolvent or substantially out of compliance with state operating standards and is temporarily or permanently denied a certificate of authority to operate. Currently the State Department of Social Services does not have the authority to operate such a provider, so that residents may be moved in an orderly manner or, preferably, so that the provider may be kept operating. Such authority would greatly reduce or totally obviate the transfer problems posed by denying a substandard provider the right to operate in this state.

(b) It is the intent of the Legislature in enacting this chapter to provide a procedure whereby the State Department of Social Services, acting in conjunction with a special advisory board, may appoint a qualified administrator to work with the management of, and, in specified circumstances, to operate a facility of, a provider which has been found to be out of compliance with the rules and regulations for the performance of life care contracts and thereby prevent crisis situations wherein elderly residents are left without means for their support or moved without proper preparation.

(c) It is the intent of the Legislature that the administrator may only assume the operation of such a provider in order to either bring it into compliance with law and return it to the original certificate holder in accordance with standards set forth in this chapter, or facilitate an orderly liquidation of the provider. It is the intent of the Legislature that the administrator shall assure the orderly transfer of residents should the provider ultimately fail.

SEC. 3. Section 1770.7 is added to the Health and Safety Code, to

read:

1770.7. The provisions of this chapter are in addition to, and do not supersede any other provision of law or regulations adopted pursuant thereto which are as strict or are stricter. The Legislature intends that the provisions of this chapter shall be minimum requirements to be imposed upon any person, association, or organization undertaking the responsibility for providing for another person's lifetime or long-term care, board, or lodging in exchange for any prepayment or transfer of property prior to such services actually being rendered, whether or not such prepayment or transfer of property is supplemented with periodic or other payments. For such reasons, the provisions of this chapter shall be liberally construed for the protection of persons attempting to secure their care for the remainder of their lifetime or for a period in excess of one year.

SEC. 4. Section 1771 of the Health and Safety Code is amended to read:

1771. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Advisory board" or "board" means the Life Care Contract Advisory Board.

(b) "Certificate" or "certificate of authority" means an authorization in writing, in the form designated by the state department, for a provider to enter into or perform one or more life care contracts at a single specified facility.

(c) "Contracts" or "agreements" means life care contracts.

(d) "Department" or "state department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property, made or promised to be made by a person entering into a life care contract, for the purpose of assuring services pursuant to a life care contract or as full or partial payment for the promise to provide a facility.

(g) "Escrow agent" means any of the following entities approved by the director as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of such escrow pursuant to the escrow agreement and the provisions of this chapter:

(1) A bank which is a member of the Federal Deposit Insurance Corporation.

(2) A building and loan association which is a member of the Federal Savings and Loan Insurance Corporation.

(3) A trust company.

(4) Any other escrow agent.

(h) "Facility" means any place or accommodation in which a provider undertakes to provide a resident with nursing services, medical services, health-related services, board and lodging and care as necessary, or any combination of such services, for a term in excess

of one year, or for life, pursuant to a life care contract, whether such accommodation is constructed, owned, leased, rented or otherwise contracted for by the provider.

(i) "Life care contract" means a contract to provide to a person for the duration of such person's life or for a term in excess of one year, nursing services, medical services, or health-related services, board and lodging and care as necessary, or any combination of such services, for such person in a facility, which may be conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, and includes continuing care agreements.

(j) "Living unit" means an apartment, room, or other area within a facility set aside for the exclusive use of one or more identified residents.

(k) "Monthly care fee" means the monthly cost to a resident of services rendered pursuant to a life care contract, exclusive of entrance fees or other prepayments, but including all nursing services, medical services or health-related services, board and lodging, or any combination of such services, and any other regular periodic charges to the resident, determined on a monthly basis, pursuant to the provisions of a life care contract.

(*l*) "Prepaid life care contract" means a life care contract under which the advance payment, including any entrance fee, is more than nine times the annual amount of the monthly care fee or 108 times the monthly care fee.

(m) "Provider" means a person, association, or organization of any kind which provides, or proposes to provide, services or board and lodging pursuant to a life care contract.

(n) "Resident" means a person who enters into a life care contract with a provider, or who is designated in a life care contract, to be a person being provided or to be provided with services or board and lodging.

(o) "Transferor" means a person who transfers or promises to transfer a sum of money or property to a provider for the purpose of assuring services pursuant to a life care contract, whether for the benefit of the transferor or another.

SEC. 5. Section 1771.2 is added to the Health and Safety Code, to read:

1771.2. On and after January 1, 1979, no person, association, or organization may enter into a life care contract as a provider except pursuant to this chapter. Any transfer of a sum of money or property to a provider pursuant to a life care contract executed in violation of the provisions of this chapter is void and of no force and effect, and no action shall be brought for the reasonable value of any services rendered pursuant to such a void contract.

SEC. 6. Section 1771.3 is added to the Health and Safety Code, to read:

1771.3. An application for a certificate of authority for each

facility, shall be made to the state department on forms provided by the state department. The application for issuance of a certificate shall be accompanied by the financial statements as provided in Section 1771.4, the projected annual income statements as provided in Section 1771.5, and by a copy of the proposed forms of life care contract to be entered into with residents at each facility as provided in Sections 1778, 1779, and 1780. The application shall be signed by the chief executive officer of the applicant, and certified by the oath of the chief executive officer, stating that to the best of his knowledge and belief, the items are correct.

SEC. 7. Section 1771.4 is added to the Health and Safety Code, to read:

1771.4. An application for issuance of a certificate of authority shall be accompanied by certified financial statements of the applicant as of a date not more than 90 days prior to the date the certified financial statements are filed. Such certified financial statements shall include balance sheet and income statements for the three most recent fiscal years of the applicant or such shorter period of time as the applicant shall have been in existence. If applicant's fiscal year ended more than 90 days prior to the date of filing, there shall also be included an income statement, which need not be certified, covering the period between the date such fiscal year ended and a date not more than 90 days prior to the date the application is filed.

SEC. 8. Section 1771.5 is added to the Health and Safety Code, to read:

1771.5. (a) An application for issuance of a certificate of authority shall be accompanied by projected annual income statements for the facility for not less than a five-year period commencing on the date the facility is intended to become operational, if operation of the facility has not yet commenced, or actual projected annual income statements for a period commencing on the first day of the first fiscal year following the most recent year for which a certified financial statement has been provided pursuant to Section 1771.4. The projected annual income statements may be either on an accrual basis or a cash basis, but shall use the same accounting system as used in the certified financial statements. If the projected annual income statements are on an accrual basis, separate cash flow statements shall also be provided. The projected annual income statements shall include all of the following:

(1) The beginning cash balance, and in the event that operation of the facility has not yet commenced, the beginning cash balance shall be consistent with the statement of anticipated source and application of funds described in subdivision (n) of Section 1771.8.

(2) The anticipated earnings on cash reserves.

(3) The estimates of net receipts from entrance fees other than entrance fees included in the statement of source and application of funds required under subdivision (n) of Section 1771.8, less estimated entrance fee refunds, and a description of the actuarial basis and

method of calculation for the projection of entrance fee receipts.

(4) An estimate of gifts or bequests if any are to be relied on to meet operating expenses.

(5) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged, including a description of the assumptions used for calculating the effect on the income of the facility of subsidized health services to be provided pursuant to the life care contracts.

(6) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses, with separate allowances for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(7) An estimate of annual payments of principal and interest required by any mortgage loan, lease, contract, rental agreement, or other long-term financing.

(b) If the income statements required by subdivision (a) indicate that the provider will have cash balances over and above two months' projected operating expenses of the facility, a description of the manner in which the reserve funds will be invested, and the persons who will be making the investment decisions, shall accompany the application.

SEC. 9. Section 1771.6 is added to the Health and Safety Code, to read:

1771.6. An application for issuance of a certificate of authority shall be accompanied by copies of any escrow agreements executed with an escrow agent pursuant to Section 1774.4.

SEC. 10. Section 1771.8 is added to the Health and Safety Code, to read:

1771.8. An application for issuance of a certificate shall contain the following:

(a) The name and business address of the applicant.

(b) The name, address, and a description of the physical property of the facility.

(c) All of the terms and conditions of the life care contracts used or to be used by the applicant, including, but not limited to, the services to be provided to residents pursuant to the contracts, all of the fees or charges to be paid by residents, and the method of payment of such fees or charges.

(d) If the applicant is a legal entity other than an individual, such as a corporation, partnership, or trust, a statement naming the type of such legal entity and listing the interest and extent of such interest of each principal in such legal entity. For the purposes of this section, "principal" means any person or entity having a 10 percent or more financial interest in such legal entity or, if the legal entity is a trust, each beneficiary of the trust holding a 10 percent or more beneficial interest in such trust.

(e) If the applicant is a legal entity other than an individual, the names of the members of the board of directors, the trustees, the

managing partners, or other responsible officer of such legal entity.

(f) The estimated number of residents of the facility to be provided services by the applicant pursuant to the life care contracts.

(g) A statement of the provisions that have been made, or will be made, to provide reserve funding or security by the provider to enable the provider to fully perform his obligations pursuant to life care contracts, including, but not limited to, the establishment of escrow accounts, accounts in financial institutions, trusts, or reserve funds.

(h) A statement as to whether the applicant was or is affiliated with a religious, charitable, or other nonprofit organization, the extent of any affiliation, and the extent, if any, to which the affiliate organization will be responsible for the financial and contract obligations of the applicant. If such affiliate organization will be responsible for such financial and contract obligations of the applicant, a statement by such affiliate organization, signed by a responsible officer of such affiliate organization, shall accompany the application.

(i) If the applicant is a subsidiary corporation or the affiliate of another corporation, a statement identifying the parent corporation or the other affiliate corporation, the primary activities of such parent or other affiliate corporation, and the interest in the applicant held by such parent or other affiliate corporation.

(j) A description of the business experience of the applicant in the operation of similar facilities and, if the facility will be managed on a day-to-day basis by a corporation or organization other than the applicant, a description of the business experience of the manager in the operation and management of similar facilities.

(k) A statement as to whether the applicant, a principal, a parent, affiliate, or subsidiary corporation, or any other affiliate entity, or any responsible employee or manager has had any injunctive or restrictive order of a court of record, or any suspension or revocation of any state or federal license or permit, arising out of or relating to business activity of health care applied against it, including, but not limited to, actions affecting a license to operate a foster care facility, a health care institution, a retirement home, a home for the aged, a day care center, a nursing home, an intermediate care facility, a community care facility, a hospital, or a home health agency.

(m) A statement of any periodic rates to be paid by residents, the method by which such rates are determined, and the manner by which the provider may adjust such rates in the future. If the facility is already in operation, or if the provider operates one or more similar facilities within this state, the statement shall include tables showing the frequency and average dollar amount of each increase in periodic rates at each such facility for the previous five years or such shorter period as each such facility may have been operated by the provider or his predecessor in interest.

(n) If construction, lease, rental, or purchase of the facility has not yet been completed, a statement of the anticipated source and

application of the funds to be used in such purchase, lease, rental, or construction, including, but not limited to, all of the following:

(1) An estimate of the cost of purchasing, leasing, rental, or constructing, and equipping the facility, including, but not limited to, such related costs as financing expense, legal expense, land costs, occupancy development costs, and all other similar costs which the provider expects to incur or become obligated for prior to the commencement of operations.

(2) An estimate of the total entrance fees to be received from residents prior to completion of occupancy.

(3) A description of any mortgage loan or other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of such financing.

(4) An estimate of any funds which are anticipated to be necessary to fund start-up losses and to assure full performance of the obligations of the provider pursuant to life care contracts including, but not limited to, any reserve fund escrow required pursuant to Section 1774.4.

(o) Any other provisions determined to be required by the state department as necessary to carry out the provisions of this chapter.

SEC. 11. Section 1774.4 is added to the Health and Safety Code, to read:

1774.4. Before issuing a certificate of authority for any facility at which care is, or will be, furnished pursuant to a prepaid life care contract executed after January 1, 1974, the state department shall require that the applicant for a certificate establish a reserve fund escrow account with an escrow agent, and shall condition the issuance of such certificate upon current maintenance of such escrow account, in an amount which equals the aggregate principal and interest, rental, or lease payments due during the next 12 months on account of any first mortgage or other long-term financing of the facility or any leases or other rental agreement for a facility. The principal of the escrow account may be invested as provided in Section 1775 for reserve funds with the earnings thereon payable to the provider, and amounts not to exceed in the aggregate one-sixth of the total principal shall be released to the provider upon notice to the director. The escrow agreement shall provide that upon withdrawal of any such amount by the provider, the escrow agent shall provide immediate written notice of such withdrawal to the director and that any amount released to the provider shall be repaid to the escrow account within two years of the release of such amount. If the provider does not repay the escrow account within such two-year period, the escrow agent shall provide immediate written notice to the director.

SEC. 12. Section 1777 of the Health and Safety Code is amended to read:

1777. Obligations pursuant to life care agreements executed by a provider shall be deemed a preferred claim against all assets owned by such provider in the event of liquidation.

For purposes of computing the reserve required pursuant to Section 1775, the liens required under Section 1772 shall not be deducted from the value of real or personal property.

SEC. 13. Section 1778 of the Health and Safety Code is amended to read:

1778. All agreements entered into between the provider and the transferor shall be in writing and shall contain all information required under Section 1779.

Any forms used by the provider in concluding an agreement with any transferor shall be filed with and approved by the state department prior to their use by the provider. The state department may contract with the Department of Insurance, on such terms as may be mutually agreeable, for any assistance which the state department may require in evaluating any submitted forms.

SEC. 14. Section 1779 of the Health and Safety Code is amended to read:

1779. Any agreement constituting a life care contract shall contain all of the following in addition to any other terms or matter required by the state department;

(a) The value of all property transferred, including, but not limited to, donations, subscriptions, fees, and any other amounts paid or payable by or on behalf of the resident.

(b) The services which are to be provided by the provider to the resident, including, in detail, all items which the resident will receive, such as board, room, medical care, clothing, burial, incidentals, and whether such items will be provided for a designated time period or for life.

(c) A copy of the current financial statement.

(d) A statement in boldface type informing the transferor of the terms and conditions under which the contract may be terminated by either party, including any health or financial conditions for a person to continue as a resident and any conditions under which all or any portion of the entrance fee will not be refunded by the provider. No life care contract shall be terminated except upon at least 90 days' notice, except that, during the first 90-day trial residence period, the agreement may be terminated by either party without cause and without advance notice. Such requirement shall be written into the terms of the contract, consistent with state law.

(e) A conspicuous statement in a size equal to at least 10-point boldface type in immediate proximity to the space reserved for the signature of the transferor that provides as follows:

"You, the transferor, may cancel this transaction at any time within 90 days from the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(f) A completed form in duplicate, captioned "Notice of Cancellation" which may be attached to the agreement and be easily detachable, and which shall contain in type of at least 10-point size the following statement:

"Notice of Cancellation"

/Enter date of transaction/

_____

(Date)

You may cancel this transaction, without any penalty, within 90 days from the above date.

If you cancel, any property transferred, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the provider of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you are obligated for the reasonable value of the services received by you from the provider after the first seven days up to the date you canceled or made available to the provider the possession of any living unit delivered to you under this contract, whichever is later.

If you cancel, you must make available to the provider, in substantially as good condition as when received, the possession of any living unit delivered to you under this contract.

If you do make possession of the living unit available to the provider and the provider does not acknowledge possession within 20 days of the date of your notice of cancellation, you have no further obligation. If you fail to make the possession of any living unit available to the provider, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____ ,

/Name of provider/

at _____

/Address of provider's place of business/

not later than midnight of _____

(Date)

I hereby cancel this transaction _____

(Date)

_____

(Transferor's signature)

(g) The name and address of the provider to which a notice of cancellation is to be delivered.

(h) The date the transferor signed the agreement.

SEC. 15. Section 1779.3 is added to the Health and Safety Code, to read:

1779.3. (a) A clearly legible copy of any life care contract, completely filled out with no blank spaces, executed by the provider and executed by a transferor, shall be furnished, with all required or included attachments including, but not limited to, the attached

notice of cancellation and the financial reports, income statements, and escrow statements, to such transferor at the time the life care contract is executed and shall be furnished within 10 days to the resident if the resident is other than the transferor.

(b) The provider shall orally inform the transferor of the right to cancel the life care contract within 90 days at the time the life care contract is executed.

(c) Until the provider has complied with this section, and for 90 days thereafter, the transferor may cancel the life care contract by written notice, and, if possession of the living unit delivered under the contract, if any, is made available to the provider in substantially as good condition as when received, no obligation of any kind, except the reasonable value of services rendered after the first seven days pursuant to the canceled contract, shall be incurred by the resident.

SEC. 16. Section 1779.6 is added to the Health and Safety Code, to read:

1779.6. (a) In addition to any other right to revoke an offer, a transferor has the right to cancel a life care contract within 90 days after the day on which the transferor signs an agreement which complies with Sections 1779 and 1779.3.

(b) Except as otherwise provided in subdivision (c), cancellation occurs when the transferor gives written notice of cancellation to the provider at the address specified in the agreement or offer.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) Notice of cancellation given by the transferor need not take the particular form as provided with or in the life care contract and, however expressed in writing, is effective if it indicates the intention of the transferor not to be bound by the life care contract.

SEC. 17. Section 1779.8 is added to the Health and Safety Code, to read:

1779.8. (a) Within 10 days after a life care contract has been canceled, the provider shall tender to the transferor money or property transferred by the transferor, whether as entrance fees or application fees, and any note, notes, or other evidences of indebtedness.

(b) No resident shall be required to move into a facility until after the expiration of the first seven days of the 90-day cancellation period.

(c) In case of failure of a provider to comply with the provisions of this section, the transferor may recover, in addition to damages or remedies otherwise provided by law, reasonable attorneys' fees as determined by the court.

(d) Any transfer or attempted transfer of property, received pursuant to a life care contract by a provider, to any third person within such 90-day cancellation period is contrary to public policy and void.

SEC. 17.5. Section 1781 of the Health and Safety Code is amended to read:

1781. The state department shall make such rules and regulations as it deems best for the government of any institution or organization specified in Section 1770 in order that the rights of aged persons may be protected. These rules and regulations shall include provisions which require entrance fees for a prepaid life care contract, however denominated, to be properly applied for the purpose of providing services pursuant to a life care contract. If advance collection of entrance fees is required to construct a facility in which the resident is to reside, such entrance fees shall be used for such purpose in amounts sufficient to assure completion of the facility. The state department may, by any duly authorized representative, inspect and examine any such institution, home, or place, books and records, or the performance of any service required pursuant to the agreement.

SEC. 18. Section 1782 of the Health and Safety Code is amended to read:

1782. In lieu of making a detailed financial investigation, the state department may accept an annual audit of the records of the organization or person, made by a certified public accountant or public accountant, which shall include a certification, if such is the case, that the organization or person is maintaining reserves in accordance with the requirements of Section 1775.

Each provider shall have an annual audit made of its financial affairs by a certified public accountant or a public accountant, which audit shall include full details on per capita costs of operation for each facility operated and on the matter of reserves. A copy of the audit shall be filed with the state department and be transmitted to each transferor requesting such audit. Funds and property received as advance payments for services or board and lodging for a resident from the transferors shall be reported separately from membership or entrance fees, donations, or other funds, whether or not available for capital expansion.

SEC. 19. Section 1782.5 is added to the Health and Safety Code, to read:

1782.5. (a) Each and every provider holding a certificate shall file an annual audit and reports with the department within 90 days after the end of the fiscal year of that provider. The audit and reports shall be in a form and contain any information required by the regulations of the department. The department shall provide copies of the audit and reports to the Department of Finance which shall review each audit and report and report thereon to the department. The annual audit and reports and any amendments thereto, shall be signed by the chief executive officer of the provider, and certified by the oath of the chief executive officer, stating that to the best of his knowledge and belief, the items are correct.

(b) A provider shall amend its annual financial statement on file with the department at any time, without the payment of any additional fee, if an amendment is necessary to prevent the financial statement from containing a material misstatement of fact or omitting to state a material fact required to be stated.

SEC. 20. Section 1783 of the Health and Safety Code is amended to read:

1783. (a) A formal application shall be made by a person or organization to the state department for a certificate of authority as provided in this chapter. When issued, the certificate of authority shall remain in full force unless suspended, limited, or revoked by the state department in accordance with Section 1784.

SEC. 21. Section 1784 of the Health and Safety Code is amended to read:

1784. (a) Certificates of authority may be suspended, limited, or revoked for cause by the state department as follows:

(1) Revocation of the license of the provider pursuant to the licensing provisions of Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division shall require either that the department revoke or suspend such certificate or that the director petition the superior court in the county in which the provider's facility is located for an order appointing an administrator to assume management and possession of the facility and the assets thereof pursuant to Article 2 (commencing with Section 1790) of this chapter.

(2) Suspension of the license of the provider pursuant to the licensing provisions of Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division is cause for the department, in its discretion, to limit, suspend, or revoke such certificate until such license is reinstated.

(3) Failure to maintain at all times at least the minimum reserve requirements of Section 1775 without notice to, and written approval of the department, a copy of which written approval shall be posted in at least two prominent locations in the facility, is cause to limit or suspend such certificate. The department may, upon finding of changed circumstances, remove a suspension or limitation imposed pursuant to this paragraph after approval by the department of a temporary deficiency in such reserves, and after notice of such approval is posted in at least two prominent locations in such facility, and after the department finds that the residents of such facility are adequately protected.

(4) Failure to file the annual financial audit and reports pursuant to Section 1782.5 is cause for the department to limit, suspend, or revoke the certificate.

(5) Maintaining the reserve fund escrow account required pursuant to Section 1774.4 at an amount less than the aggregate principal and interest, rental, and lease payments due during the next 12 months pursuant to Section 1774.4 for one or more periods totaling 12 months or more in the aggregate in the preceding two-year period is cause to limit, suspend, or revoke such certificate.

(6) Violation of a limitation on a certificate shall require the department to revoke such certificate.

(7) Violation of the rules and regulations promulgated by the department pursuant to the provisions of this chapter is cause for the

department to limit, suspend, or revoke such certificate.

(b) Once issued, a certificate of authority shall be limited, suspended, or revoked by the state department only after consultation with, and consideration of the recommendations by, the advisory board. The person or organization whose certificate of authority is limited, suspended, or revoked shall have right of appeal to the state department. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all of the powers granted therein. A suspension, limitation, or revocation shall remain in effect until completion of such proceedings in favor of the provider, and may be changed to another form of such qualification on the certificate.

(c) For the purposes of this chapter "limit" and "limitation," with respect to a certificate, means a restriction on any activity pursuant to such certificate which prohibits the provider from entering any new contract or contracts subject to the provisions of this chapter.

SEC. 22. Section 1785 of the Health and Safety Code is amended to read:

1785. In addition to the provisions of Section 1784, for the failure of any organization or person to establish and maintain the escrow accounts, or for failure to establish, or for substantially depleting, the reserves required pursuant to Section 1775 so that the protection of the residents is placed in serious jeopardy, the state department shall, after due notice, revoke or suspend its certificate of authority, or the director may petition the superior court in the county in which the provider's facility is located for an order appointing an administrator to assume possession and management of the facility and the assets thereof pursuant to Article 2 (commencing with Section 1790) of this chapter. In either case, the state department shall request the Department of Insurance to aid in the determination as to whether or not sufficient reserves are established and maintained to protect the residents in a facility or facilities.

SEC. 23. Section 1789 of the Health and Safety Code is amended to read:

1789. Except as otherwise provided in Section 1789.2, no report, circular, public announcement, certificate, financial statement, or any other printed matter or advertising material, or oral representation of such matters, shall be designed for or used to solicit or induce persons to enter into any agreement providing for the transfer of property, conditioned upon a life care contract, as defined in subdivision (f) of Section 1771, which lists or refers to the name of any individual or organization, including, but not limited to, registered charities and religious organizations, in the title of the provider, nor in any other manner, material, or matter, shall the name of such individual or organization be designed for or used to solicit or induce persons to enter into such agreement, unless there is on file with the department a written and legally sufficient document of acceptance of full responsibility and liability by such

individual or organization, including, but not limited to, such registered charity or religious organization, for any such agreement.

Any person, organization, provider, association, or corporation, that issues, delivers, or publishes, or, as manager or officer or in any other administrative capacity, assists in the issuance, delivery, or publication of any printed matter, oral representation, or advertising material which does not conform to the requirements of this section is guilty of a misdemeanor and such act shall constitute cause for the suspension of all and any licenses, permits, and certificates of authority issued to such person, organization, provider, association, or corporation by any agency of the state.

SEC. 25. Section 1789.2 is added to the Health and Safety Code, to read:

1789.2. Any provider which has used the name of any charitable or religious organization in its title before January 1, 1979, may continue to use such name. If the charitable or religious organization is not responsible for the financial and contractual obligations of the provider, the organization shall not be required to file the financial responsiblility document required by Section 1789, but the provider shall include in every life care contract entered into on or after January 1, 1979, a conspicuous statement which clearly informs the transferor and the resident that such organization is not so responsible.

SEC. 26. Section 1790 of the Health and Safety Code is amended and renumbered to read:

1789.5. The provisions of this chapter shall not limit, abridge, nor qualify the powers of the district attorney to institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter or any other provision of law, including, but not limited to actions for fraud or misrepresentation. The department shall furnish access to, and copies of, any records in the possession of, or accessible to, the department on request of such district attorney, and cooperate in any investigation by, and in the performance of, the duties of such district attorney.

SEC. 27. Article 2 (commencing with Section 1790) is added to Chapter 10 of Division 2 of the Health and Safety Code, to read:

Article 2. State Management of Life Care Contracts

1790. If a provider fails to comply with the provisions of Section 1782.5, or at any other time when the director has reason to believe that the provider is insolvent, is in imminent danger of becoming insolvent, is in a financially unsound or unsafe condition, or that its condition is such that it may otherwise be unable to fully perform its obligations pursuant to life care contracts, except where the director determines an emergency exists pursuant to the provisions of Section 1790.1, the director may require the provider to submit for approval within 60 days a financial plan detailing the method by which the

provider proposes to overcome the deficiencies noted by the director. The department shall approve or disapprove the plan within 30 days of its receipt. If the plan is approved, the provider shall immediately implement the plan. If the plan is disapproved, or if, at any time after approval, the director determines the plan is not being fully implemented, the director may, after consultation with , and upon consideration of the recommendations of the advisory board, require the provider to obtain new or additional management capability to solve its difficulties. A reasonable period, as determined by the department, shall be allowed to the reorganized management to develop a plan which, subject to the approval of the department and after review by the advisory board, will reasonably assure that the provider will meet its responsibilities under the law.

1790.1. (a) If the director determines, after consultation with the advisory board at an emergency meeting convened for such purpose, that an emergency exists which threatens immediate closure of a facility of a provider, the director shall petition the court for an order of appointment of an administrator as provided in this article. The director shall include with such petition a request for a temporary restraining order to prevent the provider from disposing or transferring assets pending the hearing on the petition.

(b) If at the end of the period, a plan has not been approved and any of the conditions described in Section 1790 exist, the director, after consultation with, and consideration of the recommendations of, the advisory board, may petition the superior court in the county in which the provider's facility is located for an order appointing an administrator to assume management and possession of the provider's facility or assets in accordance with this article in order to rehabilitate the provider to enable it to fully perform its obligation pursuant to life care contracts. The court may order that reasonable compensation be paid to the administrator so appointed. Costs for such compensation shall be levied against the assets of the provider.

(c) The provider shall be served with a copy of the petition, together with an order to appear and show cause why management and possession of the provider's facility or assets should not be vested in an administrator pursuant to this article.

(d) The order shall specify a hearing date, which shall be not less than five nor more than 10 days following service of the petition and order on the provider.

(e) Such actions shall have precedence over all matters, except criminal matters, in such court.

1790.2. (a) At the time of the hearing, the state department shall advise the provider and the court of the name of the proposed administrator.

(b) If, at the conclusion of the hearing, including such oral evidence as the court shall consider, the court finds that the provider is insolvent, is in imminent danger of becoming insolvent, is in a financially unsound or unsafe condition, or that its condition is such that it may otherwise be unable to fully perform its obligations

pursuant to life care contracts, the court shall issue an order appointing an administrator to take possession of the property of the provider and to conduct the business thereof, enjoining the provider from interfering with the administrator in the conduct of the rehabilitation, and directing the administrator to take such steps toward removal of the causes and conditions which have made rehabilitation necessary, as the court may direct. The order shall include a provision directing the issuance of a notice of the rehabilitation proceedings to the residents at such facility and to such other interested persons as the court shall direct.

(c) The court may permit the provider to participate in the continued operation of the facility during the pendency of any state management ordered pursuant to this section and shall include in the order of state management the details of the nature and scope of such participation.

(d) The court shall retain jurisdiction throughout the rehabilitation proceeding and may issue such further orders as are deemed necessary to accomplish the rehabilitation or orderly liquidation of the facility in order to protect the residents of the facility.

1790.3. The director shall maintain a list of qualified persons for use of the courts in appointing an administrator pursuant to this article.

1790.4. If an administrator is appointed to rehabilitate a provider, such administrator may do any of the following:

(a) Take possession of and preserve, protect, and recover any assets, books, and records, or property of the provider, including, but not limited to, claims or causes of action belonging to, or which may be asserted by, the provider and to deal with such property in the administrator's name in the capacity as administrator, and purchase at any sale any real estate or other asset upon which the provider may hold any lien or encumbrance or in which the provider may have an interest.

(b) File, prosecute, and defend or compromise any suit or suits which have been filed, or which may thereafter be filed, by or against such provider which are deemed by the administrator to be necessary to protect the provider or the residents or any property affected thereby.

(c) Deposit and invest any of the provider's available funds.

(d) Pay all expenses of the rehabilitation.

(e) Perform all duties of the provider in the provision of care and services to residents in the facility at the time the administrator takes possession.

(f) Exercise such other powers and duties as may be authorized by law or provided by order of the court.

1790.5. The director, administrator, or any interested person, upon due notice to the administrator, at any time, may apply to the court for an order terminating the rehabilitation proceedings and permitting the provider to resume possession of the provider's

property and the conduct of the provider's business, but no such order shall be granted except when, after a full hearing, the court has determined that the purposes of the proceeding have been fully accomplished and that the facility can be returned to the provider's management without further jeopardy to the residents of the facility, creditors, owners of the facility, and to the public. An order terminating the rehabilitation proceeding shall be based upon a full report and accounting by the administrator of the conduct of the provider's officers, employees, and business during the rehabilitation and of the provider's current financial condition. Upon issue of an order terminating the rehabilitation, the department shall reinstate the certificate of authority and may limit, suspend, or revoke such reinstated certificate only upon a change in the conditions at the time of such order or a determination of facts which, if such facts had been known at the time of such order, the court would not have entered such order as determined by the department.

1790.6. If at any time the director determines that further efforts to rehabilitate the provider would not be in the best interest of the residents or prospective residents, or would not be economically feasible, the director may, with the approval of the advisory board, apply to the court for an order of liquidation and dissolution or may apply for other appropriate relief for dissolving the provider and winding up its affairs. Upon issue of an order directing the liquidation or dissolution of the provider the department shall revoke the provider's certificate issued pursuant to Section 1783.

SEC. 28. Article 3 (commencing with Section 1791) is added to Chapter 10 of Division 2 of the Health and Safety Code, to read:

Article 3. Life Care Contract Advisory Board

1791. There is hereby created the Life Care Contract Advisory Board, which shall advise the state department on matters affecting life care programs. The board shall be composed of eight members to be appointed by the Governor, each of whom shall be a resident of the State of California. The members of the board shall include:

(a) The Director of Social Services or his or her designee.

(b) The Insurance Commissioner or his or her designee.

(c) Two representatives of organizations which hold certificates of authority pursuant to this chapter and which have offered life care services for five years prior to the appointment.

(d) A representative of the business community who has five years of experience in managing health care facilities.

(e) A certified public accountant.

(f) An actuary.

(g) A senior citizen who is not eligible for appointment pursuant to subdivisions (a) to (f), inclusive, who will represent consumers of life care services.

1791.2. The term of office for each member of the advisory board, other than the first appointees and the Director of Social Services or

the Insurance Commissioner or their appointees, shall be four years. For the purposes of initial appointments to the advisory board, the Governor shall appoint two members for terms of two years, two members for terms of three years, and two members for terms of four years.

1791.4. Members of the advisory board shall serve without pay. They shall be reimbursed for their actual and necessary traveling expenses incurred while on official business.

1791.6. The advisory board shall:

(a) Meet at a time and place designated by the Governor within 30 days after all eight members are appointed and elect a chairperson and a secretary from their own number, each of whom shall hold office for one year. At the expiration of each term, a new chairperson and secretary shall be elected from among the members of the advisory board.

(b) Hold an annual meeting to review the financial and managerial condition of each facility operating under a certificate of authority; hold additional meetings as necessary to review the financial condition of any facility that the board determines is indicating signs of financial difficulty and may be in need of close supervision; and hold other meetings as needed to monitor the condition of facilities at such times and places as the department or the chair of the advisory board may direct.

(c) Keep a record of its proceedings. The books and records of the advisory board shall be open to inspection by the state department at all times.

(d) Act in an advisory capacity to the state department.

(e) Recommend to the state department needed changes in its rules and regulations.

(f) Upon the request of the department, provide advice regarding the correction of problems relating to the management or operation of any facility.

(g) Perform any other advisory functions necessary to improve the management or operation of life care contracts.

SEC. 29. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1241

An act relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. The State Department of Social Services shall prepare and submit to the appropriate policy and fiscal committees of the Legislature a report on state administration of public social service programs currently being administered by county government. The report shall include recommendations and shall determine whether such state administration is in the best interests of recipients of public social services, taxpayers, and efficient administration. The report shall address the administration of Aid to Families with Dependent Children, including BHI, food stamps, State Supplementary Program, general relief, social services funded by Title XX of the federal Social Security Act, Medi-Cal eligibility, community care facilities licensing, and Child Support Enforcement Program. The State Department of Social Services shall receive assistance as necessary from the State Department of Health Services, county welfare departments, the Department of Finance, the Department of General Services, the State Personnel Board, the Public Employees' Retirement System, and other state and local agencies, as determined by the Director of Social Services.

The report shall include an estimated schedule for implementation and shall consider the following issues:

(a) Payment systems and data management.

(b) Contractual arrangements with respect to buildings, facilities, and equipment currently utilized by counties.

(c) Status of county employees in relation to the state civil service system, including issues concerning union contracts, salaries and fringe benefits.

(d) Description of programs to be included in the plan and specific functions relative to each.

(e) Feasibility of contractual arrangements with some counties to perform administrative functions.

(f) Costs involved in the transfer of administration from the county level to the state.

The department shall submit a preliminary report to the Legislature no later than October 15, 1978, on the progress achieved by that date in meeting the requirements of this act, and a final report no later than March 15, 1979, providing all of the information required by this act.

SEC. 2. The State Department of Social Services shall report to

the Legislature no later than June 15, 1979, on the performance of the counties during the first six months of the 1978–79 fiscal year. This report shall assess the quality of administration measured in terms of error rates under the Aid to Families with Dependent Children program for the first six months of the 1978–79 fiscal year relative to similar periods for the fiscal years 1975–76, 1977–78, and 1978–79.

SEC. 3. The Legislative Analyst shall monitor and evaluate the development of both the preliminary and final reports prepared by the State Department of Social Services pursuant to Section 1 of this act, and report his findings to the Legislature no later than 30 days after each such report is submitted. The department shall cooperate with the Legislative Analyst in conducting his evaluation, and shall provide to him any information he requires for such purpose.

SEC. 4. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Department of Social Services to carry out the provisions of this act. The department shall seek and utilize federal funds to the fullest extent available in administering the provisions of this act.

SEC. 5. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code.

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

The passage of Proposition 13 at the June 6, 1978, statewide election greatly reduced the amount of funds available to counties for the administration of public social services. In order to ensure that these vital services are not interrupted and to plan for the possible transfer of such administration from the counties to the state, it is necessary for this act to take effect immediately.

CHAPTER 1242

An act to amend Section 13300 of the Welfare and Institutions Code, relating to the blind, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 13300 of the Welfare and Institutions Code is amended to read:

13300. There is in the State Treasury a permanent revolving fund, in the amount of one hundred fifty thousand dollars ($150,000), to be known as the Revolving Loan Fund, and to be administered by the department. The fund shall be used to make loans to recipients

of aid under this chapter or aid to the aged, blind, or disabled due to blindness under Chapter 3 (commencing with Section 12000), at a rate of interest not to exceed 3 percent per year, to enable those recipients to establish themselves in businesses, professions, or other gainful employment, including, but not limited to self-employment or to assist those already engaged in such endeavors. No loan in excess of fifteen thousand dollars ($15,000) shall be made to any individual under this section.

The department shall establish through the Office of Services to the Blind the terms and conditions of loans made pursuant to this section, and shall prescribe the procedure to be followed in making application for such loans. All funds received in repayment of loans made pursuant to this section shall be deposited in the Revolving Loan Fund, and shall be available for the making of additional loans as provided in this section.

The collection procedures appropriate to the purposes and objectives of the loan fund shall be prescribed by the Office of Services to the Blind.

In no event shall the amount expended in any fiscal year from the Revolving Loan Fund exceed the amount saved by the state as a result of discontinuance of aid due to the earnings of persons during the preceding fiscal year.

SEC. 2. The State Department of Social Services shall report to the Legislature by June 1, 1979, on the status of loans made pursuant to Section 13300 of the Welfare and Institutions Code, including the default rate and recommendations for the improvement of administration of the loan program.

SEC. 3. The sum of eighty thousand dollars ($80,000) is hereby appropriated from the General Fund to the Revolving Loan Fund, which is administered by the State Department of Social Services, to carry out the provisions of this act.

CHAPTER 1243

An act to amend Sections 987.64, 1001.1, 1003.1, 1003.3, 1003.14, and 1006.16 of, and to add Section 987.92 to, the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 987.64 of the Military and Veterans Code is amended to read:

987.64. The department shall not acquire a home under the provisions of this article where the market value of the improvements exceeds the sum of fifty-three thousand dollars

($53,000), to be determined by an appraiser or an authorized representative of the department. In determining the market value of such improvements, the department shall exclude therefrom any increase in value caused by or resulting from the addition or installation of special facilities or features pursuant to the United States Veterans Administration program for specially adapted housing for disabled veterans, or the addition or installation of solar energy heating devices or equipment.

SEC. 2. Section 987.92 is added to the Military and Veterans Code, to read:

987.92. Notwithstanding other provisions of this article relating to maximum sums to be expended by the department and maximum purchase price, the department may acquire a home equipped with solar energy heating devices at a purchase price not in excess of forty-eight thousand dollars ($48,000).

SEC. 3. Section 1001.1 of the Military and Veterans Code is amended to read:

1001.1. Debentures may be issued by the department at such times and in such amounts not to exceed five hundred million dollars ($500,000,000) in the aggregate as the department, with the approval of the Veterans' Debenture Finance Committee, may determine. The issuance of debentures shall be authorized by a resolution of issuance adopted as in this chapter provided.

SEC. 4. Section 1003.1 of the Military and Veterans Code is amended to read:

1003.1. There is hereby appropriated, from any surplus money in the Veterans' Farm and Home Building Fund of 1943, not required to meet any immediate demand which has accrued against the fund, without regard to fiscal years, the sum of fifty million dollars ($50,000,000) or so much thereof as may be necessary to carry out the provisions of this article, but in no event shall the sum be less than 10 percent of the total amount of all debentures outstanding hereunder. Such sum appropriated shall be held in investments which are convertible into cash within the period of time required to satisfy the current requirements of the Veterans' Debenture Revenue Fund.

SEC. 5. Section 1003.3 of the Military and Veterans Code is amended to read:

1003.3. In the event of cancellation of any pledged contract or forfeiture or other termination thereof for any cause the department shall, as soon as practicable, enter into a new contract covering the same or similar property and shall substitute the new contract in lieu of the pledged contract so canceled or terminated. The income and receipts of the substituted contract shall be pledged in their entirety to the payment of the debentures.

SEC. 6. Section 1003.14 of the Military and Veterans Code is amended to read:

1003.14. Debentures authorized under any resolution of issuance approved by the Veterans' Debenture Finance Committee shall be

sold by the State Treasurer upon the written request of the department at public or private sale, as determined by the department with the approval of the Veterans' Debenture Finance Committee, and at such times and in such amounts as the department deems necessary to provide sufficient funds for the purposes for which the debentures are then authorized, provided that the debentures shall not be sold at less than their par value and accrued interest thereon to date of delivery. Successive issues of debentures within the limits of the authorization for the issuance of debentures, in the event any such limitations are included in the proceedings for the issuance of such debentures, shall be equally and regularly secured without preference, priority or distinction as to security or otherwise by reason of time of issue, or sale, except as debentures of various series may differ with respect to dates, numbers, interest rates, maturity, redemption provisions, sinking fund provisions, or otherwise as expressly authorized in any resolution of issuance.

SEC. 7. Section 1006.16 of the Military and Veterans Code is amended to read:

1006.16. (a) On and after January 1, 1981, all applications for the benefits contained in this article shall be filed with the department within 25 years from the date of the applicant's discharge from the service, or release from active duty, except for applications filed by either:

(1) Veterans who were wounded or who are disabled as a result of wartime service, or

(2) Veterans who were declared prisoners of war while members of the armed services.

CHAPTER 1244

An act to add Section 147.2 to the Labor Code, relating to occupational safety and health.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 147.2 is added to the Labor Code, to read:

147.2. In accordance with the provisions of Chapter 2 (commencing with Section 6350) of Part 1 of Division 5 of this code and Section 429.11 of the Health and Safety Code, the Department of Industrial Relations shall, by interagency agreement with the State Department of Health Services, establish a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment in the state.

The repository shall fulfill all of the following functions:

(1) Provide reliable information of practical use to employers, employees, representatives of employees, and other governmental agencies on the possible hazards to employees of exposure to toxic materials or harmful physical agents.

(2) Collect and evaluate toxicological and epidemiological data and any other information which may be pertinent to establishing harmful effects on health of exposure to toxic materials or harmful physical agents. Nothing in this subdivision shall be construed as authorizing the repository to require employers to report any information not otherwise required by law.

(3) Recommend to the Chief of the Division of Occupational Safety and Health Administration that an occupational safety and health standard be developed whenever it has been determined that a substance in use or potentially in use in places of employment is potentially toxic at the concentrations or under the conditions used.

(4) Notify the Director of Food and Agriculture of any information developed by the repository which is relevant to carrying out his or her responsibilities under Chapters 2 (commencing with Section 12751) and 3 (commencing with Section 14001) of Division 7 of the Food and Agricultural Code.

The Director of Industrial Relations shall appoint an Advisory Committee to the repository. The Advisory Committee shall consist of four representatives from labor, four representatives from management, four active practitioners in the occupational health field, and three persons knowledgeable in biomedical statistics or information storage and retrieval systems. The Advisory Committee shall meet on a regular basis at the request of the director. The committee shall be consulted by, and shall advise the director at each phase of the structuring and functioning of the repository and alert system with regard to, the procedures, methodology, validity, and practical utility of collecting, evaluating, and disseminating information concerning hazardous substances, consistent with the primary goals and objectives of the repository.

Nothing in this section shall be construed to limit the ability of the State Department of Health Services to propose occupational safety and health standards to the Occupational Safety and Health Standards Board.

Policies and procedures shall be developed to assure, to the extent possible, that the repository uses and does not duplicate the resources of the federal government and other states.

On or before December 31 of each year, the Department of Industrial Relations shall submit a report to the Legislature detailing the implementation and operation of the repository including, but not limited to, the amount and source of funds allocated and spent on repository activities, the toxic materials and harmful physical agents investigated during the past year and recommendations made concerning them, actions taken to inform interested persons of the possible hazards of exposure to toxic materials and harmful physical agents, and any recommendations for legislative changes relating to

the functions of the repository.

CHAPTER 1245

An act to add Section 50.8 to the Labor Code, relating to occupational health, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 50.8 is added to the Labor Code, to read:

50.8. The department shall develop a long range program for upgrading and expanding the resources of the State of California in the area of occupational health and medicine. The program shall include a contractual agreement with the University of California for the creation of occupational health centers affiliated with regional schools of medicine and public health. One such occupational health center shall be situated in the northern part of the state and one in the southern part. The primary function of these occupational health centers shall be the training of occupational physicians and nurses, toxicologists, epidemiologists, and industrial hygienists. In addition, the centers shall serve as referral centers for occupational illnesses and shall engage in research on the causes, diagnosis, and prevention of occupational illnesses.

The centers shall also inform the Division of Occupational Safety and Health Administration of the Department of Industrial Relations, State Department of Health Services, and the Department of Food and Agriculture of their clinical and research findings.

SEC. 2. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the State Controller for allocation to the Department of Industrial Relations for purposes of developing the program authorized by this act, provided that such allocation shall not be made sooner than 30 days following notification from the Director of Finance to the Joint Legislative Budget Committee of such allocation of funds to the department.

CHAPTER 1246

An act to add Section 2750.5 to the Labor Code, relating to employment.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 2750.5 is added to the Labor Code, to read:

2750.5. There is a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, or who is performing such services for a person who is required to obtain such a license is an employee rather than an independent contractor. Proof of independent contractor status includes satisfactory proof of these factors:

(a) That the individual has the right to control and discretion as to the manner of performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for.

(b) That the individual is customarily engaged in an independently established business.

(c) That the individual's independent contractor status is bona fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or instrumentalities used in the work other than tools and instrumentalities normally and customarily provided by employees, hiring employees, performing work that is not ordinarily in the course of the principal's work, performing work that requires a particular skill, holding a license pursuant to the Business and Professions Code, the intent by the parties that the work relationship is of an independent contractor status, or that the relationship is not severable or terminable at will by the principal but gives rise to an action for breach of contract.

In addition to the factors contained in subdivisions (a), (b), and (c), any person performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall hold a valid contractors' license as a condition of having independent contractor status.

For purposes of workers' compensation law, this presumption is a supplement to the existing statutory definitions of employee and independent contractor, and is not intended to lessen the coverage of Section 3353 of the Labor Code.

CHAPTER 1247

An act to add Section 7110.5 to the Business and Professions Code, and to amend Section 226 of, and to add Section 98.9 to, the Labor Code, relating to labor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 7110.5 is added to the Business and Professions Code, to read:

7110.5. Upon receipt of a certified copy of the Labor Commissioner's finding of a willful or deliberate violation of the Labor Code by a licensee, pursuant to Section 98.9 of the Labor Code, the registrar shall initiate formal disciplinary action against such licensee within 30 days of notification.

SEC. 2. Section 98.9 is added to the Labor Code, to read:

98.9. Upon a finding by the Labor Commissioner that a willful or deliberate violation of any of the provisions of the Labor Code, within the jurisdiction of the Labor Commissioner, has been committed by a person licensed as a contractor pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, in the course of such licensed activity, the Labor Commissioner shall immediately, upon expiration of the period for review specified in Section 98.2, or other applicable section, deliver a certified copy of the finding of the violation to the registrar of the Contractors' State License Board.

SEC. 3. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall semimonthly or at the time of each payment of wages furnish each of his employees either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) gross wages earned; (2) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (3) net wages earned; (4) the inclusive dates of the period for which the employee is paid; (5) the name of the employee or his social security number; and (6) the name and address of the employer.

(b) Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall not become operative until January 1, 1980.

CHAPTER 1248

An act to amend Sections 6303 and 6800 of the Labor Code, relating to safety in employment.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 6303 of the Labor Code is amended to read:

6303. (a) "Place of employment" means any place, and the premises appurtenant thereto, where employment is carried on, except a place the health and safety jurisdiction over which is vested by law in, and actively exercised by, any state or federal agency other than the division.

(b) "Employment" includes the carrying on of any trade, enterprise, project, industry, business, occupation or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire except household domestic service.

SEC. 2. Section 6800 of the Labor Code is amended to read:

6800. The division has jurisdiction over:

(a) The safety and health of railroad employees employed in offices and in shops devoted to the construction, maintenance or repair of railroad equipment, and all other railroad employees with respect to occupational health, including, but not limited to, air contaminants, noise, sanitation and availability of drinking water.

(b) The safety of employees of electric interurban or street railroads, employed in the generation, transmission or distribution of electric energy, or in shops devoted to the repair of railroad equipment, or in any nonpublic utility operation of such railroads.

(c) The safety of employees of all other public utilities as defined in the Public Utilities Act.

CHAPTER 1249

An act to amend Sections 1775 and 1777.7 of, to amend and renumber Section 3098 of, to add Section 1722.1 to, and to repeal and add Section 1776 to, the Labor Code, relating to public works contracts, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 1722.1 is added to the Labor Code, to read:

1722.1. For the purposes of this chapter, the terms "contractor" and "subcontractor" shall include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in such capacity, when working on public works pursuant to Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

SEC. 2. Section 1775 of the Labor Code is amended to read:

1775. The contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each workman paid less than the prevailing rates as determined by the director for such work or craft in which such workman is employed for any public work done under the contract by him or by any subcontractor under him. The difference between such prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than the prevailing wage rate shall be paid to each workman by the contractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that the provisions of this section will be complied with.

To the extent that there is insufficient money due a contractor to cover all penalties forfeited and amounts due in accordance with this section, or in accordance with Section 1813 of this chapter, and in all cases where the contract does not provide for a money payment by the awarding body to the contractor, the awarding body shall notify, provided that in the case of a workman claiming the difference between the prevailing wage rate and the amount paid him the awarding body has first been given the notice mentioned in Section 1190.1 of the Code of Civil Procedure, the Division of Labor Standards Enforcement of such violation and the Division of Labor Standards Enforcement, if necessary with the assistance of the awarding body, may maintain an action in any court of competent jurisdiction to recover the penalties and the amounts due provided for herein. Such action shall be commenced not later than 90 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 90 days after acceptance of such public work, whichever last occurs. No issue other than that of the liability of the contractor for the penalties allegedly forfeited and amounts due shall be determined in such action, and the burden shall be upon the contractor to establish that the penalties and amounts demanded in such action are not due.

Out of any money withheld or recovered or both there shall first be paid the amount due each workman and if insufficient funds are withheld or recovered or both to pay each workman in full the money shall be prorated among all such workmen.

SEC. 3. Section 1776 of the Labor Code is repealed.

SEC. 4. Section 1776 is added to the Labor Code, to read:

1776. (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the contractor.

(c) Each contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within 10 days after receipt of a written request.

(d) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the contractor awarded the contract or performing the contract shall not be marked or obliterated.

(e) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

(f) In the event of noncompliance with the requirements of this section, the contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such contractor must comply with this section. Should noncompliance still be evident after such 10-day period, the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor

Standards Enforcement, such penalties shall be withheld from progress payments then due.

(g) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. Such stipulations shall fix the responsibility for compliance with this section on the prime contractor.

(h) The director shall adopt rules consistent with the California Public Records Act, (Ch. 3.5 (commencing with Sec. 6250), of Div. 7, Title 1, Gov. C.) and the Information Practices Act of 1977, (Title 1.8 (commencing with Sec. 1798) Pt. 4, Div. 3, Civ. C.) governing the release of such records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

SEC. 5. Section 1777.7 of the Labor Code is amended to read:

1777.7. (a) In the event a contractor willfully fails to comply with the provisions of Section 1777.5, such contractor shall:

(1) Be denied the right to bid on any public works contract for a period of one year from the date the determination of noncompliance is made by the Administrator of Apprenticeship; and

(2) Forfeit as a civil penalty in the sum of fifty dollars ($50) for each calendar day of noncompliance. Notwithstanding the provisions of Section 1727, upon receipt of such a determination the awarding body shall withhold from contract progress payments then due or to become due such sum.

(b) Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council.

(c) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if such awarding body is an entity other than the state.

The interpretation and enforcement of Sections 1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.

SEC. 6. Section 3098 of the Labor Code is amended and renumbered to read:

1773.3. An awarding agency whose public works contract falls within the jurisdiction of Section 1777.5 shall, within five days of the award, send a copy of the award to the Division of Apprenticeship Standards. When specifically requested by a local joint apprenticeship committee, the division shall notify the local joint apprenticeship committee regarding all such awards applicable to the joint apprenticeship committee making the request. Within five days of a finding of any discrepancy regarding the ratio of apprentices to journeymen, pursuant to the certificated fixed number of apprentices to journeymen, the awarding agency shall notify the Division of Apprenticeship Standards.

SEC. 7. The sum of twenty-seven thousand five hundred dollars

($27,500) is hereby appropriated from the General Fund to the Department of Industrial Relations for the purposes of this act.

CHAPTER 1250

An act to amend Section 132a of, to add Sections 98.6 and 98.7 to, and to repeal Sections 1196 and 1196.1 of, the Labor Code, relating to employment.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 98.6 is added to the Labor Code, to read:

98.6. (a) No person shall discharge or in any manner discriminate against any employee because such employee has filed any bona fide complaint or claim or instituted or caused to be instituted any proceeding under or relating to his rights, which are under the jurisdiction of the Labor Commissioner, or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any rights afforded him.

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of such employment because such employee has made a bona fide complaint or claim to the division pursuant to this part shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer. Any employer who willfully refuses to hire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for such rehiring or promotion by a grievance procedure, arbitration or hearing authorized by law, is guilty of a misdemeanor.

SEC. 2. Section 98.7 is added to the Labor Code, to read:

98.7. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of Section 98.6 may, within 30 days after the occurrence of the violation, file a complaint with the Labor Commissioner alleging the discrimination. Upon receipt of the complaint, the Division of Labor Standards Enforcement shall cause such investigation to be made as it deems appropriate. If upon investigation it determines that the provisions of Section 98.6 have been violated, it shall bring an action in any appropriate court against the person who committed the violation. In any such action the courts shall have jurisdiction, for cause shown, to restrain violations of Section 98.6 and order all appropriate relief including reinstatement of the employee to his former position with back pay.

Within 30 days of the receipt of a complaint pursuant to this section, the division shall review the facts of the employee's complaint, set a hearing date, or notify the employee and the employer of its decision, and, where necessary, begin the appropriate court action to enforce such decision.

SEC. 3. Section 132a of the Labor Code is amended to read:

132a. It is the declared policy of this state that there should not be discrimination against workers who are injured in the course and scope of their employment.

(1) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because the latter has filed or made known his intention to file an application with the appeals board, or because the employee has received a rating, award or settlement, is guilty of a misdemeanor and subject to the provisions of Section 4553. Any such employee shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer.

(2) Any insurance carrier who advises, directs, or threatens an insured under penalty of cancellation or a raise in premium or for any other reason, to discharge an employee because the latter has filed or made known his intention to file an application with the appeals board, or because the employee has received a rating, award, or settlement, is guilty of a misdemeanor and subject to the provisions of Section 4553.

(3) Any employer who discharges, or threatens to discharge, or in any manner discriminates against any employee because the employee testified or made known his intentions to testify in another employee's case before the appeals board is guilty of a misdemeanor, and the employee shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer.

(4) Any insurance carrier who advises, directs or threatens an insured under penalty of cancellation or a raise in premium or for any other reason, to discharge or in any manner discriminate against an employee because the employee testified or made known his intentions to testify in another employee's case before the appeals board is guilty of a misdemeanor.

Proceedings under this section for increased compensation as provided in Section 4553, or for reinstatement and reimbursement for lost wages and work benefits, are to be instituted by filing an appropriate petition with the appeals board, but such proceedings may not be commenced more than one year from the discriminatory act or date of termination of the employee. The appeals board is vested with full power, authority, and jurisdiction to try and determine finally all the matters specified in this section subject only to judicial review, except that the appeals board shall have no jurisdiction to try and determine a misdemeanor charge. The appeals board may refer and any worker may complain of suspected violations of the criminal misdemeanor provisions of this section to

the Division of Labor Standards Enforcement, or directly to the office of the public prosecutor.

SEC. 4. Section 1196 of the Labor Code is repealed.

SEC. 5. Section 1196.1 of the Labor Code is repealed.

SEC. 6. Nothing in this act shall be construed to entitle an employee to reinstatement or reimbursement for lost wages or work benefits if such employee willfully misrepresents any facts to support a complaint or claim filed with the Labor Commissioner.

CHAPTER 1251

An act to add Section 637.3 to the Penal Code, relating to voice stress analyzers.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 637.3 is added to the Penal Code, to read:

637.3. (a) No person or entity in this state shall use any system which examines or records in any manner voice prints or other voice stress patterns of another person to determine the truth or falsity of statements made by such other person without his or her express written consent given in advance of the examination or recordation.

(b) This section shall not apply to any peace officer, as defined in Section 830, while he is carrying out his official duties.

(c) Any person who has been injured by a violator of this section may bring an action against the violator for his actual damages or one thousand dollars ($1,000), whichever is greater.

CHAPTER 1252

An act to amend Sections 7521 and 7538 of, and to add Section 7554 to, the Business and Professions Code, and to add Article 5 (commencing with Section 2930) to Chapter 2 of Division 3 of the Labor Code, relating to monitoring of employees.

[Approved by Governor September 26, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person other than an insurance adjuster who, for any

consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee. For the purposes of this subdivision, a private investigator is any person, firm, company, association, partnership or corporation acting for the purpose of investigating, obtaining, and reporting to any private employer, its agent, supervisor, or manager, information concerning such employer's employees involving questions of integrity, honesty, breach of rules or other standards of performance of job duties.

This subdivision shall not apply to either of the following:

(1) A public utility regulated by the State Public Utilities Commission, or its employees;

(2) A theater exhibition business or its employees.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or watch.

(d) An insurance adjuster within the meaning of this chapter is a person other than a private investigator who, for any consideration whatsoever, engages in any of the activities enumerated in subdivision (a) in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business.

(e) A repossessor within the meaning of this chapter is a person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property,

including but not limited to personal property registered under the provisions of the Vehicle Code, which has been sold under a conditional sales agreement or which is subject to a chattel mortgage. A licensee under this chapter shall not engage in business or accept employment to collect claims owed or due or asserted to be owed or due to another unless the licensee has complied with the provisions of Chapter 8 (commencing with Section 6850) of Division 3 in addition to complying with the provisions of this chapter, except that a repossessor licensed under this chapter may make a written demand for payment in lieu of repossession if the demand is made pursuant to an assignment for repossession and if under the terms of the assignment the fee or remuneration due to the repossessor is not based on a percentage of the amount collected.

(f) An alarm company operator within the meaning of this chapter shall mean and include any business operated for any consideration whatsoever, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. "Alarm company operator," however, shall not include a business which merely sells from a fixed location or manufacture alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

(g) An alarm agent within the meaning of this chapter is a person employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing, or servicing an alarm system. The term "alarm system" shall mean any assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

SEC. 2. Section 7538 of the Business and Professions Code is amended to read:

7538. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or his representative, any information he may acquire as to any criminal offense, but he shall not divulge to any other person, except as he may be required by law so to do, any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager, or employee of a licensee shall knowingly make any false report to his employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of private investigator, insurance adjuster, and repossessor licensees, shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) No licensee, or officer, director, partner, manager, or employee of a repossessor licensee, shall use an alias in connection with the official activities of the licensee's business.

(g) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(h) No private patrol licensee, or officer, director, partner, manager, or employee of a private patrol licensee shall use a badge, except while engaged in guard or patrol work and while wearing a uniform.

(i) No licensee shall appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(j) No licensee shall permit an employee or agent in his own name to advertise, engage clients, furnish reports or present bills to clients, or in any manner whatever conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

(k) No licensee, officer, director, partner, manager, or employee of a private investigator shall knowingly and directly solicit employment from any injured person or from any other person to obtain authorization on behalf of the injured person, as an investigator to investigate the accident or act which resulted in injury or death to such person or damage to the property of such person. Nothing in this subdivision shall prohibit the soliciting of employment from such injured person's attorney. This subdivision shall not apply to any business agent or attorney employed by a labor organization.

(*l*) No licensee, officer, director, partner, or manager of a private investigator shall pay or compensate any of its employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

SEC. 3. Section 7554 is added to the Business and Professions Code, to read:

7554. The director, in lieu of suspending or revoking a license issued under this chapter for violations of Sections 7551, 7553.1, and 7553.2, may impose a civil penalty not to exceed five hundred dollars ($500) upon a licensee, if the director determines that such action better serves the purposes of this chapter.

SEC. 4. Article 5 (commencing with Section 2930) is added to Chapter 2 of Division 3 of the Labor Code, to read:

Article 5. Investigations of Employees

2930. Any employer who disciplines or discharges an employee on the basis of any investigation of the employee's conduct, performance, or honesty performed by a person licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code shall provide the employee with a copy of the investigation report prior to discharging or disciplining the employee. Where an interview occurs which might result in the termination of an employee for dishonesty, the employee shall be handed a copy of the latest investigation report on which the interview was based during the course of the interview prior to its conclusion. This section shall not be applicable if the licensee conducting the investigation is employed exclusively and regularly by one employer in connection with the affairs of only that employer and where there exists an employer-employee relationship and the entire investigation is conducted solely for such employer by such licensee.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1253

An act to amend Section 96 of the Labor Code, relating to the Labor Commissioner.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his deputies and representatives authorized by him in writing shall, upon the filing of a claim therefor by an employee, or an employee representative authorized in writing by an employee, with the Labor Commissioner, take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics' and other liens of employees.

(c) Claims based on "stop orders" for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workers' tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workers' compensation benefits in which the Workmen's Compensation Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.

(j) Claims for loss of wages as the result of discharge from employment for the garnishment of wages.

CHAPTER 1254

An act to amend Sections 1413, 1413.1, 1419, 1422.2, 1426, and 1432 of, to amend and renumber Section 1430.1 of, to add Sections 1422.5 and 1430.3 to, to add chapter headings immediately preceding Sections 1411, 1413, 1414, 1419, 1420, 1421, 1431, and 1432 of, and to repeal and add Section 1431 of, the Labor Code, relating to fair employment practices.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. A chapter heading is added immediately preceding Section 1411 of the Labor Code, to read:

CHAPTER 1. PURPOSE AND DECLARATION OF CIVIL RIGHTS

SEC. 2. A chapter heading is added immediately preceding Section 1413 of the Labor Code, to read:

CHAPTER 2. DEFINITIONS

SEC. 3. Section 1413 of the Labor Code is amended to read:

1413. As used in this part, unless a different meaning clearly appears from the context:

(a) "Person" includes one or more individuals, partnerships, associations or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(c) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(d) "Employer," except as hereinafter provided, includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities.

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employee" does not include any individual employed by his parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

SEC. 4. Section 1413.1 of the Labor Code is amended to read:

1413.1. As used in this part, unless a different meaning clearly appears from the context:

(a) "Division" means the Division of Fair Employment Practices in the Department of Industrial Relations.

(b) "Chief" means the principal executive officer of the division.

(c) "Commission" means the State Fair Employment Practice Commission created by Section 1414.

(d) "Physical handicap" includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(e) "Medical condition" means any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(f) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(g) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

SEC. 5. A chapter heading is added immediately preceding Section 1414 of the Labor Code, to read:

CHAPTER 3. THE COMMISSION

SEC. 6. A chapter heading is added immediately preceding Section 1419 of the Labor Code, to read:

CHAPTER 4. THE DIVISION

SEC. 7. Section 1419 of the Labor Code is amended to read:

1419. The division shall have the following functions, powers and

duties:

(a) To establish and maintain a principal office and such other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies.

(e) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the functions and duties of the division pursuant to this part.

(f) (1) To receive, investigate and conciliate complaints alleging discrimination in employment on the bases enumerated in this part.

(2) To receive, investigate, and conciliate complaints alleging a violation of Section 51 or 51.7 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) To subpoena witnesses, compel their attendance, administer oaths, examine any person under oath or by sworn interrogatory, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the division.

(h) To issue accusations pursuant to Section 1422.2 and to prosecute such accusations before the commission.

(i) To issue such publications and such results of investigations and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination on the bases enumerated in this part.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 1431.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

SEC. 8. A chapter heading is added immediately preceding Section 1420 of the Labor Code, to read:

CHAPTER 5. UNLAWFUL PRACTICES, GENERALLY

SEC. 9. A chapter heading is added immediately preceding Section 1421 of the Labor Code, to read:

CHAPTER 6. ENFORCEMENT AND HEARING PROCEDURES

SEC. 10. Section 1422.2 of the Labor Code is amended to read:

1422.2. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the chief in his or her

discretion may cause to be issued in the name of the division a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing. An accusation shall be issued, if at all, within one year after the filing of a complaint.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall promptly notify, in writing, the person claiming to be aggrieved. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint within one year from the date of such notice. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to such practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. Such actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where such persons have filed a civil class action in the federal courts alleging a comparable claim of unlawful discrimination against the same defendant or defendants. In actions brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees and costs except where such action is filed by a public agency or a public official, acting in an official capacity.

SEC. 11. Section 1422.5 is added to the Labor Code, to read:

1422.5. Where the division issues an accusation, or is about to do so, and the respondent accused of engaging in unlawful practices under this part is a state contractor or is a supplier of goods and services to the state, the chief shall send a written notice of the issuance of the accusation and a copy of the accusation to the appropriate awarding agency and request a report of any action which the awarding agency takes in response to the division's notification and issuance of accusation.

SEC. 12. Section 1426 of the Labor Code is amended to read:

1426. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring such respondent to cease and desist from such unlawful practice and to take such action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or

without back pay, restoration to membership in any respondent labor organization, as, in the judgment of the commission, will effectuate the purposes of this part, and including a requirement for report of the manner of compliance.

(b) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(c) If the commission finds that a respondent has not engaged in any such unlawful practice, the commission shall state its findings of fact and determination and shall issue and cause to be served on the parties an order dismissing such accusation as to such respondent.

(d) Any findings and determination made or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated herein.

(e) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

SEC. 13. Section 1430.1 of the Labor Code is amended and renumbered to read:

1420.4. It shall be an unlawful practice for employers, labor organizations, and employment agencies subject to the provisions of this part to fail to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after such records and files are initially created or received, or for employers to fail to retain personnel files of applicants or terminated employees for a minimum period of two years after the date of the employment action taken. For the purposes of this section, the State Personnel Board is exempt from the two-year retention requirement and shall instead, maintain such records and files for a period of one year. Upon notice that a verified complaint against it has been filed under this part, any such employer, labor organization, or employment agency shall maintain and preserve any and all such records and files until such complaint is fully and finally disposed of and all appeals or related proceedings terminated. The commission shall adopt suitable rules, regulations, and standards to carry out the purposes of this section. Where necessary, the division, pursuant to its powers under Section 1429.1, may seek temporary or preliminary judicial relief to enforce this section.

SEC. 14. Section 1430.3 is added to the Labor Code, to read:

1430.3. Any person who willfully violates Section 1420.4 concerning recordkeeping shall be guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

SEC. 15. A chapter heading is added immediately preceding Section 1431 of the Labor Code, to read:

CHAPTER 7. NONDISCRIMINATION AND COMPLIANCE PROGRAMS

SEC. 16. Section 1431 of the Labor Code is repealed.

SEC. 17. Section 1431 is added to the Labor Code, to read:

1431. (a) Any employer who is, or wishes to become, a contractor with the state for public works or for goods or services is subject to the provisions of this part and to the nondiscrimination requirements of this section and any rules and regulations which implement it.

(b) Prior to becoming a contractor or subcontractor with the state, an employer may be required to submit a nondiscrimination program to the division for approval and certification and may be required to submit periodic reports of its compliance with such a program.

(c) Every state contract and subcontract for public works or for goods or services shall contain a nondiscrimination clause prohibiting discrimination on the bases enumerated in this part by contractors or subcontractors. The nondiscrimination clause shall contain a provision requiring contractors and subcontractors to give written notice of their obligations under such clause to labor organizations with which they have a collective bargaining or other agreement. Such contractual provisions shall be fully and effectively enforced.

(d) The division shall periodically develop rules and regulations for the application and implementation of this section, and submit them to the commission for consideration and adoption in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of the Government Code. Such rules and regulations shall describe and include, but not be limited to:

(1) Procedures for the investigation, approval, certification, decertification, monitoring, and enforcement of nondiscrimination programs.

(2) The size of contracts or subcontracts below which any particular provision of this section shall not apply.

(3) The circumstances, if any, under which a contractor or subcontractor is not subject to this section.

(4) Criteria for determining the appropriate plant, region, division, or other unit of a contractor's or subcontractor's operation for which a nondiscrimination program is required.

(5) Procedures for coordinating the nondiscrimination requirements of this section and its implementing rules and regulations with the California Plan for Equal Opportunity in Apprenticeship, with the provisions and implementing regulations of Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, and with comparable federal laws and regulations concerning nondiscrimination, equal employment opportunity, and affirmative action by those who contract with the United States.

(6) The basic principles and standards to guide the division in administering and implementing this section.

(e) Where a contractor or subcontractor is required to prepare an affirmative action, equal employment, or nondiscrimination program subject to review and approval by a federal compliance agency, that program may be filed with the division, instead of any nondiscrimination program regularly required by this section or its implementing rules and regulations. Such a program shall constitute a prima facie demonstration of compliance with this section. Where the division or a federal compliance agency has required the preparation of an affirmative action, equal employment, or nondiscrimination program subject to review and approval by the division or a federal compliance agency, evidence of such a program shall also constitute prima facie compliance with an ordinance or regulation of any city, city and county, or county which requires an employer to submit such a program to a local awarding agency for its approval prior to becoming a contractor or subcontractor with such agency.

(f) Where the division determines and certifies that the provisions of this section or its implementing rules and regulations are violated or where the commission, after hearing an accusation pursuant to Section 1424, determines a contractor or subcontractor is engaging in practices made unlawful under this part, the division or the commission may recommend appropriate sanctions to the awarding agency. Any such recommendation shall take into account the severity of the violation or violations and any other penalties, sanctions, or remedies previously imposed.

SEC. 18. A chapter heading is added immediately preceding Section 1432 of the Labor Code, to read:

CHAPTER 8. MISCELLANEOUS

SEC. 19. Section 1432 of the Labor Code is amended to read:

1432. (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination on the bases enumerated in this part.

(b) Nothing contained in this part relating to discrimination on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided such terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment by any city, city and county, county, or other political subdivision of the state, nothing contained in this

part shall be construed, in any manner or way, to limit or restrict the application of Section 51 of the Civil Code.

SEC. 20. It is the intention of the Legislature that Sections 16 and 17 of this act, which repeal and add Section 1431 to the Labor Code, shall not become operative until July 1, 1979. Prior to that time, however, the division is authorized and directed to develop and submit implementing rules and regulations to the commission, before April 1, 1979, and the commission is authorized and directed to consider and propose implementing rules and regulations which have an effective date of no earlier than July 1, 1979. It is the further intention of the Legislature that Section 17 of this act, adding Section 1431 to the Labor Code, shall not be interpreted in such a manner as to frustrate its purpose and shall not be interpreted in such a manner as to adversely effect otherwise lawful state or federal programs which benefit the physically handicapped, the aged, low-income individuals, minorities, or women.

CHAPTER 1255

An act to amend Section 6217 of the Public Resources Code, relating to the State Lands Commission, and making an appropriation therefor.

[Approved by Governor September 26, 1978. Filed with Secretary of State September 27, 1978.]

I am reducing the appropriation contained in Section 1 of Senate Bill No. 1660 [Public Resources Code Section 6217(d)] from $600,000 to $500,000 for each of the fiscal years, 1979–80, 1980–81, 1981–82, 1982–83, 1983–84

The Sea Grant program receives sufficient funds from other sources which minimize the need for additional state funds at this time.

With this reduction, I approve Senate Bill No 1660

EDMUND G. BROWN JR., Governor

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

SECTION 1. Section 6217 of the Public Resources Code is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and such sums shall be applied to the following obligations in the following order:

(a) To the General Fund such revenue as necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for such purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for the 1978–79 fiscal year, and six hundred thousand dollars ($600,000) for each of the fiscal years 1979–80, 1980–81, 1981–82, 1982–83, and 1983–84 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this subdivision, by the Secretary of the Resources Agency or his designee. During the fiscal year 1983–84, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

The Secretary of the Resources Agency shall appoint an advisory panel, which shall do all of the following:

(1) Identify state needs which might be met through sea grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination.

(2) Review all applications for funding under this subdivision and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on sea grant research projects subsequent to their approval and funding under this subdivision.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this subdivision.

The members of such advisory panel shall serve at the pleasure of the Secretary of the Resources Agency. The advisory panel shall consist of 11 members composed of the following persons:

(1) A representative of the Department of Navigation and Ocean Development.

(2) A representative of the Department of Conservation.

(3) A representative of the Department of Fish and Game.

(4) The executive director of the California Coastal Zone Conservation Commission or his designee.

(5) A representative of the fish industry.

(6) A representative of the aquaculture industry.

(7) A representative of the ocean engineering industry.

(8) A representative of the University of California.

(9) A representative of the California State University and Colleges.

(10) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(11) A representative of the State Lands Commission. The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The sea grant research projects selected for state support under this subdivision shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this subdivision is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this subdivision shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for public higher education, the balance of all revenue in excess of that distributed under subdivisions (a), (b), (c), and (d) of this section.

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the State Controller and the Controller shall draw his warrant against the General Fund in payment of such refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

CHAPTER 1256

An act to add Sections 46180.1, 48637.1, 48637.2, and 48637.3 to the Education Code, relating to pupils, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 46180.1 is added to the Education Code, to read:

46180.1. The revenue limit of a school district which reported average daily attendance of pupils in an opportunity school during the 1977–78 school year shall, for the 1978–79 and subsequent fiscal years, be adjusted to reflect the amount by which pupil attendance at an opportunity school exceeds 180 minutes.

If the attendance of pupils in an opportunity school exceeds 180 minutes, the revenue limit of the district shall be adjusted in accordance with the following computation:

(a) Divide the number of minutes of attendance in the opportunity school in excess of 180 minutes by 180.

(b) Multiply the result obtained in subdivision (a) by the average daily attendance of pupils in opportunity schools in the district for the 1977–78 school year.

(c) Multiply the result obtained in subdivision (b) by the district revenue limit per foundation program unit of average daily attendance calculated pursuant to subdivision (f) of Section 42238.

(d) The amount determined in subdivision (c) shall be added to the revenue limit determined pursuant to subdivision (f) of Section 42238.

This section shall become operative July 1, 1978.

SEC. 2. Section 48637.1 is added to the Education Code, to read:

48637.1. No pupil shall be required to attend an opportunity school, class, or program for adjustment purposes until both the pupil and the pupil's parent or guardian have been notified in writing of the intended assignment. The notice to the parent or guardian, insofar as is practicable, shall be in the parent or guardian's primary language and shall request the parent or guardian to respond within 10 days. Absent a response from the parent or guardian the person responsible for assigning the pupil shall make a reasonable effort to contact the parent or guardian by telephone to communicate directly the information contained in the written notice.

SEC. 3. Section 48637.2 is added to the Education Code, to read:

48637.2. The person responsible for assigning pupils to an opportunity school, class, or program for adjustment purposes shall make such an assignment only upon the recommendation of a school committee formed for that purpose. The committee shall include, but need not be limited to, a representative of the school district who is familiar with the pupil's progress, a representative of the opportunity school, class, or program, and the parent or guardian of the pupil at the option of the parent or guardian. The parent or guardian may designate a representative such as a counselor, social worker or other community member, to attend the meeting of the

committee.

SEC. 4. Section 48637.3 is added to the Education Code, to read:

48637.3. Each governing board of a school district and each county board of education maintaining an opportunity school, class, or program shall ensure that not less than two times each school year a review is conducted of the progress of each pupil assigned to such school, class, or program for adjustment purposes to determine whether the pupil would benefit by returning to regular school or classes. Those participating in the review shall include a representative of the opportunity school, class, or program who is familiar with the pupil's progress, and the parent or guardian of the pupil concerned at the option of the parent or guardian.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because self-financing authority is provided in this act to cover such costs, and because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government.

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

In order that the procedures for assigning pupils to opportunity schools, classes, and programs, as prescribed by this act, will be in effect for the school term commencing in the fall of 1977, it is necessary that this act take effect immediately.

CHAPTER 1257

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1978 by adding Section 2.9F thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 2.9F is added to the Budget Act of 1978, to read:

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

Sec. 2.9F. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during

the 1978–79, 1979–80, and 1980–81 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

CAPITAL OUTLAY

Resources

512F—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (c) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund		20,467,000
(a) Backbone Trail between Saddle Peak and Malibu Creek State Park, as identified in the recreation element of the preliminary plan of the Santa Monica Mountains Comprehensive Planning Commission created pursuant to Section 67470 of the Government Code—acquisition	3,000,000	
(b) Viewshed of Malibu Creek State Park, consisting of several parcels along the southern and western boundaries of such park, as identified in the recreation element of the preliminary plan of the Santa Monica Mountains Comprehensive Planning Commission created pursuant to Section 67470 of the Government Code—acquisition	1,100,000	
(c) Several parcels in the Stunt Road area, more specifically identified by the Los Angeles County Assessor as Parcels Number 4455-22-10, 4455-22-11, 4455-22-12, 4455-23-3, 4455-24-2, and 4455-24-6 comprising 413 acres, more or less—acquisition	1,467,000	
(d) The Cross Mountain Park, the Huntington-Hartford Estate, North Benedict Canyon,		

Caballero Canyon, and the Cahuenga Peak area adjacent to Griffith Park as identified in the recreation element of the preliminary plan of the Santa Monica Mountains Comprehensive Planning Commission created pursuant to Section 67470 of the Government Code, and other lands which are proximate to access points and lands which are additions to existing state park system units—acquisition..... 14,900,000

provided, that none of the funds appropriated by this category for the projects set forth herein may be encumbered unless and until the Director of Parks and Recreation notifies the State Controller that federal funds are available to fully reimburse the state for such projects.

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

SEC. 2. The acquisitions made pursuant to this act shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

SEC. 3. No funds appropriated by this act may be expended for the purchase of any real property for the state park system or the acquisition of any other interest in real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication and public prescriptive rights or claims have been complied with in the investigations and appraisals of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

SEC. 4. It is the intent of the Legislature that if federal money is not provided to reimburse the state for the acquisitions set forth in categories (a), (b) and (c) of item 512F as added to the Budget Act of 1978 by Section 1 of this act, then the Department of Parks and Recreation shall have an opportunity to review these acquisitions and propose to the Legislature any changes in the funding sources or in the specific properties designated for acquisition based on its evaluation of the funds available and the priority of these properties

for acquisition. The Department of Parks and Recreation shall consult with the Santa Monica Mountains Comprehensive Planning Commission in conducting its evaluation and making its recommendations.

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

In order for the provisions of this act to enable the early acquisition of greatly needed lands for park purposes which will achieve a logical linkage with lands under existing public ownership and which will enable the state to protect significant lands which are in imminent danger of development, it is necessary that this act take effect immediately.

CHAPTER 1258

An act making an appropriation for the American River Parkway, and in this connection amending and supplementing the Budget Act of 1978 by adding Section 2.9E thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 2.9E is added to the Budget Act of 1978, to read:

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

Sec. 2.9E. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

CAPITAL OUTLAY

RESOURCES

512E—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (c) of Section 5096.124 of the Public Re-

sources Code, payable from the State, Urban, and Coastal Park Fund 1,550,000
Schedule:
(a) Folsom Lake SRA, American River Parkway—working drawings and construction 1,550,000
provided, that such funds may only be encumbered in accordance with plans developed by the County of Sacramento for the Department of Parks and Recreation pursuant to Resolution Number 78-344 adopted by the Board of Supervisors of the County of Sacramento on March 27, 1978.

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the monies which this act provides for the preparation of working drawings be available for such purpose for a sufficiently long period of time, it is necessary that this act take effect immediately.

CHAPTER 1259

An act to amend, repeal, and add Section 7149 of, and to add Section 7149.3 to, the Fish and Game Code, relating to sport fishing licenses, and making an appropriation therefor.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 7149 of the Fish and Game Code is amended to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of four dollars ($4) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(b) To any nonresident, over the age of 16 years, upon the payment of fifteen dollars ($15) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(c) To any person, over the age of 16 years, not a resident of this state, upon the payment of five dollars ($5), for a period of 10 days from the date of issue.

On payment of two dollars ($2) a sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit.

On payment of three dollars ($3) a sport fishing licensee may obtain a trout and salmon license stamp which, if permanently affixed to his license together with the inland water license stamp, authorizes the licensee to take all fish anywhere in this state for purposes other than profit.

Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(i) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) Any person over 62 years of age who has been a resident of the state for five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a free license during the following calendar year. All licenses issued pursuant to subdivisions (i) and (ii) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainer thereof.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

SEC. 2. Section 7149 of the Fish and Game Code is amended to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of five dollars ($5) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(b) To any nonresident, over the age of 16 years, upon the payment of twenty dollars ($20) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(c) To any person, over the age of 16 years, not a resident of this state, upon the payment of eight dollars ($8), for a period of 10 days from the date of issue.

On payment of two dollars ($2) a sport fishing licensee may obtain an inland water license stamp which if permanently affixed to his license authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit.

On payment of three dollars ($3) a sport fishing licensee may obtain a trout and salmon license stamp which if permanently affixed to his license together with the inland water license stamp authorizes the licensee to take all fish anywhere in this state for purposes other than profit.

Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(i) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) Any person over 62 years of age who has been a resident of the state for five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a free license during the following calendar year. All licenses issued pursuant to subdivision (i) and (ii) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

This section is repealed as of January 1, 1980.

SEC. 3. Section 7149 is added to the Fish and Game Code, to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713.

(b) To any nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of twenty dollars ($20) plus an amount calculated in accordance with Section 713.

(c) To any person, over the age of 16 years, not a resident of this state, for a period of 10 days from the date of issue, upon payment of a base fee of eight dollars ($8) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit, upon payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain a trout and salmon license stamp which, if permanently affixed to his license together with the inland water license stamp, authorizes the licensee to take all fish anywhere in this state for purposes other than profit, upon payment of a base fee of three dollars ($3) plus an amount calculated in accordance with Section 713.

Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(i) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) Any person over 62 years of age who has been a resident of the state for five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year

contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a free license during the following calendar year. All licenses issued pursuant to subdivisions (i) and (ii) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

This section shall become operative January 1, 1980.

SEC. 4. Section 7149.3 is added to the Fish and Game Code, to read:

7149.3. (a) On January 15 of each year, the department shall determine the number of free sport fishing licenses issued to persons receiving aid to the aged and to persons over 62 years of age pursuant to Section 7149 and the total of the fees that would have otherwise been collected by the department from such persons, including fees for license stamps. The department shall apply the actual proportion of license stamps to sport fishing licenses sold during the preceding calendar year to those provided free of charge in determining the total amount of fees that would otherwise have been collected.

(b) There shall be appropriated annually from the General Fund a sum equal to the total of the fees, as determined by the department pursuant to subdivision (a). Such sum shall be appropriated annually in the budget bill for transfer to the Fish and Game Preservation Fund.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3416 are both chaptered and become effective January 1, 1979, both bills amend Section 7149 of the Fish and Game Code, and this bill is chaptered after Assembly Bill No. 3416, that the changes in Section 7149 of the Fish and Game Code proposed by both bills be given effect and incorporated in Section 7149, in the forms set forth in Sections 2 and 3 of this act. Therefore, Sections 2 and 3 of this act shall become operative only if this bill and Assembly Bill No. 3416 are both chaptered and become effective January 1, 1979, both bills amend, repeal, and add Section 7149, and this bill is chaptered after Assembly Bill No. 3416, in which case Section 1 of this act shall not

become operative.

SEC. 6. There is hereby appropriated from the General Fund a sum equal to one-half of the total of the fees determined by the Department of Fish and Game on January 15, 1979, pursuant to subdivision (a) of Section 7149.3 of the Fish and Game Code. Such sum shall be transferred to the Fish and Game Preservation Fund by the State Controller on or before February 1, 1979.

CHAPTER 1260

An act to amend Section 832.3 of the Penal Code, relating to peace officers.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978]

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

SECTION 1. Section 832.3 of the Penal Code is amended to read:

832.3. (a) Any sheriff, undersheriff, or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, for the purposes of the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall successfully complete a course of training approved by the Commission on Peace Officer Standards and Training before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(b) Notwithstanding subdivision (c) of Section 84500 of the Education Code and any regulations adopted pursuant thereto, community colleges may give preference in enrollment to employed law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist of nonlaw enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for such courses shall be reported for state aid.

SEC. 2. Section 832.3 of the Penal Code is amended to read:

832.3. (a) Except as provided in subdivision (b), any sheriff, undersheriff, or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1975, for the purposes of the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall successfully complete a course of training approved by the Commission on Peace Officer Standards and Training before

exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(b) For the purpose of standardizing the training required in subdivision (a), the commission shall develop a training proficiency testing program, including a standardized examination which enables (1) comparisons between presenters of such training and (2) development of a data base for subsequent training programs. Presenters approved by the commission to provide the training required in subdivision (a) shall administer the standardized examination to all graduates. Nothing in this subdivision shall make the completion of such examination a condition of successful completion of the training required in subdivision (a).

(c) Notwithstanding subdivision (c) of Section 84500 of the Education Code and any regulations adopted pursuant thereto, community colleges may give preference in enrollment to employed law enforcement trainees who shall complete training as prescribed by this section. At least 15 percent of each presentation shall consist of nonlaw enforcement trainees if they are available. Preference should only be given when the trainee could not complete the course within the time required by statute, and only when no other training program is reasonably available. Average daily attendance for such courses shall be reported for state aid.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2664 are both chaptered and become effective January 1, 1979, both bills amend Section 832.3 of the Penal Code, and this bill is chaptered after Assembly Bill No. 2664, that Section 832.3 of the Penal Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2664, and that on the operative date of Assembly Bill No. 2664 Section 832.3 of the Penal Code as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 832.3 proposed by Assembly Bill No. 2664. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 2664 are both chaptered and become effective January 1, 1979, both bills amend Section 832.3, and this bill is chaptered after Assembly Bill No. 2664, in which case Section 2 of this act shall become operative on the operative date of Assembly Bill No. 2664.

CHAPTER 1261

An act to add Article 7.9 (commencing with Section 419) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to emergency medical care delivery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Article 7.9 (commencing with Section 419) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 7.9. Medical Care Delivery System

419. Subject to the availability of funds appropriated therefor, the state department may contract with regional emergency medical care councils to provide funding assistance to such councils for planning, organizing, implementing, and maintaining regional emergency medical care delivery systems. As used in this article, "regional emergency medical care council" means a joint-powers entity created by agreement of two or more counties pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of planning, developing, and coordinating emergency medical care services within participating counties and after approval as a regional emergency medical care council by the State Department of Health or its successor, the State Department of Health Services, after consultation with the State Advisory Committee on Emergency Medical Services.

Each regional emergency medical care council receiving funding pursuant to this article shall make a quarterly report to the state department upon the functioning of the emergency medical care delivery system and the state department may continue to transfer appropriated funds to the council upon satisfactory operation. The state department shall report to the Legislature on June 30th of every year on the operation and effectiveness of the emergency medical care delivery system established pursuant to this section.

SEC. 2. The sum of one hundred seventy thousand dollars ($170,000) is hereby appropriated from the General Fund to the State Department of Health, or its successor, the State Department of Health Services, for expenditure without regard to fiscal years to provide state funding to match local funding for the operation of the Northern California Emergency Care Council pursuant to Article 7.9 (commencing with Section 419) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

The required local match shall be equal in dollar amount to the state subvention actually provided pursuant to this section. No more than one hundred seventy thousand dollars ($170,000) of the moneys appropriated by this section shall be expended during any single fiscal year.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Emergency medical care delivery systems are urgently needed to provide adequate health care for California residents and visitors to this state. In order to provide authority to the State Department of Health, or its successor, the State Department of Health Services, to contract with regional emergency medical care councils to provide funding assistance to such councils for planning, organizing, implementing, and maintaining such delivery systems and to provide for the continuation of a successful emergency medical care delivery system established pursuant to Chapter 957 of the Statutes of 1973 in rural areas of the state with extensive tourism at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1262

An act to amend Section 1203 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 1203 of the Penal Code is amended to read:

1203. (a) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorneys at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time

of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(b) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(c) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(d) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon, other than a firearm, upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if

committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(e) When probation is granted in a case which comes within the provisions of subdivision (d), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(f) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(g) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (f), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(h) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 2. Section 1203 of the Penal Code is amended to read:

1203. (a) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorneys at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(b) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(c) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the

person, the court may consider any information concerning him which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him to answer or controvert it. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(d) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts:

(i) Unless he had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times.

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or

offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(e) When probation is granted in a case which comes within the provisions of subdivision (d), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(f) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings.

(g) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (a) or (f), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(h) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1078 are both chaptered and become effective January 1, 1979, both bills amend Section 1203 of the Penal Code, and this bill is chaptered after Senate Bill No. 1078, that the amendments to Section 1203 proposed by both bills be given effect and incorporated in Section 1203 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 1078 are both chaptered and become effective January 1, 1979, both amend Section 1203, and this bill is chaptered after Senate Bill No. 1078, in which case Section 1 of this act shall not become operative.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1263

An act to add Section 19614.5 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 19614.5 is added to the Business and Professions Code, to read:

19614.5. Notwithstanding Section 19614, any county or district agricultural association fair which is licensed to conduct racing meetings for the first time on or after January 1, 1979, may retain the license fee applicable to its meeting for payment of a capital expense loan incurred for the purpose of preparing its facilities for horseracing. Such license fee retention shall be applicable only during the loan period and only so long as all the monies retained are used to pay off the loan for such capital expenses.

CHAPTER 1264

An act to amend Section 19613 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 19613 of the Business and Professions Code is amended to read:

19613. (a) Except as provided in subdivisions (b) and (c), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association conducting a thoroughbred racing meeting at which the total amount handled in the parimutuel pools relating to such meeting exceeds twenty million dollars ($20,000,000) shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen an amount equivalent to 1 percent of such portion, less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools, and for a pension plan for backstretch personnel to be administered by such horsemen's organization, an amount equivalent to an additional 1 percent of such portion, less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools. The remainder

of such portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen and such amount out of such portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to such a thoroughbred horsemen's organization, 1 percent of such portion for a pension plan for backstretch personnel to be administered by such horsemen's organization. The remainder of such portion shall be distributed as purses.

SEC. 2. Section 19613 of the Business and Professions Code is amended to read:

19613. (a) Except as provided in subdivisions (b) (c), and (d), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association conducting a thoroughbred racing meeting at which the total amount handled in the parimutuel pools relating to such meeting exceeds twenty million dollars ($20,000,000) shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen an amount equivalent to 1 percent of such portion less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools, and for a pension plan for backstretch personnel to be administered by such horsemen's organization, an amount equivalent to an additional 1 percent of such portion, less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools. The remainder of such portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen such amount out of such portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to such a thoroughbred horsemen's organization, 1 percent of such portion for a pension plan for backstretch personnel to be administered by such horsemen's organization. The remainder of such portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at such meetings for administrative expense and services rendered to their respective horsemen such amounts out of such portion as determined by the horsemen's organization for the respective breeds with the approval of the board. The amount to be distributed as purses or commissions for any race meet under this subdivision shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

Pursuant to this subdivision, amounts equivalent to 3 percent of such portion for the horsemen's organization shall be distributed to any thoroughbred horsemen's organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: 1 percent for administrative expenses and services rendered to their respective horsemen, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by such thoroughbred horsemen's organizations.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 1524 are both chaptered and become effective January 1, 1979, both bills amend Section 19613 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 1524, that the amendments to Section 19613 proposed by both bills be given effect and incorporated in Section 19613 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 1524 are both chaptered and become effective January 1, 1979, both amend Section 19613, and this bill is chaptered after Assembly Bill No. 1524, in which case Section 1 of this act shall not become operative.

CHAPTER 1265

An act to amend Sections 19491, 19491.6, 19612.5, 19612.6, 19613, 19614, 19614.2, and 19619 of, and to repeal Sections 19545 and 19546 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 27, 1978.]

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

SECTION 1. Section 19491 of the Business and Professions Code is amended to read:

19491. (a) Subject to the provisions of Section 19491.5 and 19491.6, and except as provided in Section 19491.7, every association which conducts a racing meeting shall pay as an additional license fee one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less of the total amount handled in the parimutuel pools relating to its meeting and all of the breakage deducted on amounts so handled in excess of twenty-four million dollars ($24,000,000).

(b) Every association which conducts a racing meeting shall distribute the remaining one-half of the breakage deducted pursuant to Section 19597 on the first twenty-four million dollars ($24,000,000) or less of the total amount handled in the parimutuel pools relating to the meeting as additional purses and for additional commissions in the same proportion, as between purses and commissions, as

provided in Sections 19611, 19612, 19612.5, 19612.6, and 19614.

(c) Notwithstanding the provisions of subdivision (b), one-half of all the breakage deducted pursuant to Section 19597 at fair racing meetings shall be retained and distributed as additional commissions. The amount distributed as purses and commissions shall be based on the respective parimutuel pools during the previous corresponding meeting, if any.

Payment of the fee shall be made weekly on account during each meeting, and the amount attributable to breakage shall be reported as a separate item.

SEC. 2. Section 19491.6 of the Business and Professions Code is amended to read:

19491.6. (a) Except as provided in subdivision (b), the exempt amount retained by the association shall be regularly deposited in a separate account with a depository approved by the board. The funds deposited shall be distributed pursuant to a program mutually agreed upon by the association and the organization representing the horsemen at the association horseracing meeting. If mutual agreement on a program of distribution is not reached, the association or such organization, or both, may file during the current horseracing meeting of the qualifying association or within 60 days thereafter, a petition for the use of such funds with the board. The board shall act upon the petition and render its decision as to the use of such funds in consideration of the intent and purpose of this section which is to improve purse distribution.

Within one year following the close of any racing meeting, each qualifying association shall account to the board on the distribution of such funds. All such funds which have not been distributed or set aside for expenditures approved by the board shall be paid into the General Fund of the state.

(b) For fair racing meetings conducted pursuant to Section 19549 or 19549.1, the exempt amount retained by the association shall be distributed as additional purses.

SEC. 3. Section 19545 of the Business and Professions Code is repealed.

SEC. 4. Section 19546 of the Business and Professions Code is repealed.

SEC. 5. Section 19612.5 of the Business and Professions Code is amended to read:

19612.5. (a) Notwithstanding the provisions of Sections 19610, 19611, and 19612, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less in parimutuel pools operated by it during the course of a racing meeting shall deduct 15.75 percent thereof to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee at the following rates:

Daily handle	License fee rate

$100,000 and under	2.5 percent of the handle
$100,001 to $200,000	$2,500 plus 3.5 percent of the handle in excess of $100,000
$200,001 to $300,000	$6,000 plus 4.5 percent of the handle in excess of $200,000
$300,001 to $400,000	$10,500 plus 5.5 percent of the handle in excess of $300,000
$400,001 to $600,000	$16,000 plus 6.5 percent of the handle in excess of $400,000
$600,001 and over	$29,000 plus 7.5 percent of the handle in excess of $600,000

(c) For harness and thoroughbred meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

SEC. 6. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding the provisions of Sections 19610, 19611, 19612, 19612.5, and 19614, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Sections 19549, 19549.1, 19549.5, 19549.6, 19549.7, or 19701 shall deduct 15.75 percent thereof to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee at the following rates:

Daily handle	License fee rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000

$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) For harness meetings or a mixed meeting conducted pursuant to Section 19549.1, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating at the meeting. For fair meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48.00 percent to commissions and 52.00 percent to purses.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (b) of Section 19614 as amended by Chapter 354 of the Statutes of 1976.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

SEC. 7. Section 19613 of the Business and Professions Code is amended to read:

19613. (a) Except as provided in subdivisions (b), (c), and (d), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association conducting a thoroughbred racing meeting at which the total amount handled in the parimutuel pools relating to such meeting exceeds twenty million dollars ($20,000,000) shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horsemen an amount equivalent to 1 percent of such portion less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools, and for a pension plan for backstretch personnel to be administered by such horsemen's organization, an amount equivalent to an additional 1 percent of such portion, less 0.44 percent of any actual losses sustained at the meeting on parimutuel minus pools. The remainder of such portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expense and services rendered to horse-

men an amount out of such portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to such a thoroughbred horsemen's organization, 1 percent of such portion for a pension plan for backstretch personnel to be administered by such horsemen's organization. The remainder of such portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at such meetings for administrative expense and services rendered to their respective horsemen such amounts out of such portion as determined by the horsemen's organization for the respective breeds with the approval of the board. The amount to be distributed as purses or commissions for any race meet under this subdivision shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

Pursuant to this subdivision, amounts equivalent to 3 percent of such portion for the horsemen's organization shall be distributed to any thoroughbred horsemen's organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: 1 percent for administrative expenses and services rendered to their respective horsemen, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by such thoroughbred horsemen's organizations.

SEC. 8. Section 19614 of the Business and Professions Code is amended to read:

19614. (a) Notwithstanding the provisions of Sections 19611 and 19612, and except as provided in Section 19612.5, the California Exposition and State Fair or a district or county fair at which the average daily handle exceeds six hundred fifty thousand dollars ($650,000) and the total handle for the meeting does not exceed thirty million dollars ($30,000,000), shall deduct 15.75 percent from the parimutuel pools relating to its meeting, shall pay a license fee of 5.5 percent of the total amount handled, shall distribute 5.35 percent to purses, and shall retain 4.90 percent as commissions. The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

(b) Notwithstanding subdivision (a), any such fair racing association shall, for fair racing meetings, whether or not such fair racing meeting is conducted by a fair racing association or any other association under a contract, agreement, or lease, held during an annual fair, deduct 1 percent, in addition to the 15.75 percent, from the total amount handled in the parimutuel pools resulting from such fair racing meetings. The additional 1 percent shall be used for the purposes specified in Section 19627.2. Any funds received under this subdivision shall be deposited in the Fair and Exposition Fund, which

shall be in addition to the second balance of the funds provided for in Section 19629, and are hereby appropriated for the purposes specified in Section 19627.2.

SEC. 9. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of such deduction shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. Such sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all such deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins at races having a total purse value of five thousand dollars ($5,000) or more.

SEC. 10. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season and shall be the foals of mares that remain in California from the time that they conceive until their foal is dropped and weaned.

(c) Responsibility for the California Standardbred Sires Stakes Program shall lie with the California Horse Racing Board. In carrying out its responsibilities for the California Standardbred Sires Stakes Program the California Horse Racing Board shall create a standing committee that shall be known as the "Standardbred Sires Stakes

Committee". The purpose of this committee shall be to advise the board on matters pertaining to the California Standardbred Sires Stakes Program and to make recommendations regarding its operation. The Standardbred Sires Stakes Committee shall consist of five members, one of whom shall be a member of the California Harness Horse Breeders Association, one of whom shall be a member of Western Standardbred Association, two of whom shall be of harness racing interests generally, and a member of the board. The Secretary of the California Horse Racing Board shall not be a member of the committee but shall serve as secretary to the committee. The initial appointee from the California Harness Horse Breeders Association shall serve for a period of two years. The initial appointee from Western Standardbred Association shall serve for a period of one year. One of the initial appointees from racing interests generally shall serve for a period of two years and the other initial appointee shall serve for a period of one year. Thereafter, all appointments shall be for a period of two years. No member of the committee shall be compensated for his services, however, reasonable travel and other expenses incurred in connection with their duties as members of the committee may be reimbursed.

(d) The California Horse Racing Board is authorized to do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall upon receipt of recommendations from the Standardbred Sires Stakes Committee, prepare, issue and promulgate rules and regulations providing for the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining and entry fees for horses and races.

(3) Such temporary programs, including eligibility of horses, breeding and other matters, as may be necessary to make the California Standardbred Sires Stakes Program operable as soon as possible.

(4) Registration and certification of California stallions, mares bred to such stallions and foals produced thereby.

(5) Such other matters as considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining and entry fees provided for herein shall be deposited into the General Fund in a trust account entitled "California Standardbred Sires Stakes Fund," which fund is continuously appropriated for the purposes of this section. All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Standardbred Sires Stakes Committee and any other appropriate expenses shall be made by the Chairman of the California Horse Racing Board or his designee. The California Horse Racing Board shall annually make a full report to the Governor and the Legislature setting forth an itemization of all deposits to such

fund, an itemization of expenditures from such fund, and an estimate on an annual basis for the following five-year period of income to such fund and distribution from such fund.

(f) Pursuant to the provisions of Section 19491.7 of Article 4 of this chapter the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	*Purses*
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
1981 and thereafter	75%	25%

(g) An amount equal to 10 percent of the total purses raced for in the California Sires Stakes races excluding amounts derived from nomination, sustaining, and entry fees shall be awarded to the standardbred breeders of the horses that earned purse money in the California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California Sires Stakes races excluding amounts derived from nomination, sustaining, and entry fees shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California Standardbred Sires Stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding the provisions of subdivision (b) of this section and upon the recommendation of the Standardbred Sires Stakes Committee, the California Horse Racing Board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two-year-olds and are wholly owned by a California resident on the day of the race.

(j) The balance remaining in the California Standardbred Sires Stakes Fund, including nominating, sustaining and entry fees, and after the expenditures described in subdivisions (e), (f), (g), (h) and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the California Horse Racing Board upon receiving advice from the Standardbred Sires Stakes Committee in accordance with the following criteria:

(*l*) California Standardbred Sires Stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at each licensed harness meeting in California

except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled providing the California Horse Racing Board, upon receiving advice from the Standardbred Sires Stakes Committee, determines such races to be beneficial to the objectives of the California Standardbred Sires Stakes Program.

(2) Two- and three-year-old races shall be divided into colt and filly divisions. Races for four-year-olds or aged horses may be divided into divisions by sex when sufficient horses are available.

(3) Base purses for the foals of any given year at any race meeting excluding purses derived from nomination, sustaining and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse, and if elimination heats are raced, the base purse for each elimination heat shall be no less than 30 percent of the original base purse.

(4) In each division of each race in the California Standardbred Sires Stake races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	50%
2nd	25%
3rd	15%
4th	10%
(iii) Three starters	
1st	60%
2nd	30%
3rd	10%
(iv) Two starters	
1st	65%
2nd	35%
(v) One Starter	
1st	100%

CHAPTER 1266

An act to add and repeal Section 81846 of the Education Code, relating to the community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 27, 1978.]

I am reducing the appropriation contained in Section 2 of Assembly Bill No. 2158 from $5,709,000 to $4,959,000

I am eliminating $750,000 proposed for the Sierra Joint Community College District at the request of the author because swimming pool projects have not been approved for any funding The projects to be funded under this bill are projects currently under construction and I feel it is our responsibility to see that such projects are completed.

In addition, for those projects covered in Education Code Section 81846 (b) which are not under contract and where local matching funds are not available to award construction contracts, the author by letter has indicated that it is legislative intent that the State Public Works Board revert the state funds allocated for these projects at its October 1978 meeting.

I concur with the author, and I am requesting the Chairman of the Public Works Board to implement this intent

With this reduction, I approve Assembly Bill No. 2158.

EDMUND G. BROWN JR , Governor

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

SECTION 1. Section 81846 is added to the Education Code, to read:

81846. (a) For the 1978–79 fiscal year only, the chancellor, with the approval of the Department of Finance, may provide additional funding or relief to community college districts for state approved capital outlay projects. Such funding shall replace local tax revenues lost due to the passage of the Proposition 13, as approved by the electorate on June 6, 1978, and shall be applied to projects according to the following categories of priority:

(1) Projects involving state funding which have been approved and under contract prior to June 6, 1978, but for which the community college district does not have matching funds to complete the project.

(2) Projects involving only local or federal funding, or both, which have been approved and under contract prior to June 6, 1978, but for which the community college district does not have funds to complete the project.

(b) Projects involving state funding which have been approved, but which are not yet under contract, and for which the community college district needs additional funds to complete the project shall not be eligible for additional funding pursuant to the act that enacted this section. However, any district with a project or projects under this category, which project or projects have or will obtain the further approval of the Public Works Board, shall have until October 1, 1979, to obtain alternate funding for such project or projects. Any state funds which previously have been committed to such project

or projects shall not revert or otherwise be forfeited until October 1, 1979; provided, however, that such state funds shall revert if the district notifies the chancellor in writing that it will not proceed with the project or projects.

(c) This section shall remain in effect only until January 1, 1980, and on such date is repealed.

SEC. 2. There is hereby appropriated from the General Fund in the State Treasury to the Board of Governors of the California Community Colleges the sum of five million seven hundred nine thousand dollars ($5,709,000) for the purpose of carrying out the provisions of paragraphs (1) and (2) of subdivision (a) of Section 81846 of the Education Code. Any of said appropriation not allocated by the Chancellor of the California Community Colleges before June 30, 1979, shall revert to the General Fund.

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

In order to permit certain projects aided by this bill to be commenced at the earliest possible time, and so permit such projects to be completed at lower cost, it is necessary that this act take effect immediately.

In addition, the passage of Proposition 13 by the electorate on June 6, 1978, has almost totally eliminated the ability of community college districts to generate revenues for fully approved projects through the imposition of local property taxes. These local revenues were anticipated to be collected prior to the election on June 6, 1978, and the taxing authority generating such revenues was to be the means by which districts would generate their share of funds for state approved projects. Without immediate funding from other sources which are necessary to restore these lost local revenues, construction may have to be stopped in progress, thus resulting in a waste of public funds. Therefore, it is necessary that this act take effect immediately.

CHAPTER 1267

An act to amend Sections 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, and 1908 of, to add Section 1909 to, and to repeal Sections 1909 and 1910 of, the Education Code, relating to education of prisoners.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 1900 of the Education Code is amended to read:

1900. The county superintendent of schools, with the approval of the county board of education and the board of supervisors, shall have power to establish and maintain classes or schools for prisoners in any county jail, county honor farm, or any county industrial farm or county or joint county road camp, for the purpose of providing instruction in civic, vocational, literacy, health, homemaking, technical, and general education.

SEC. 2. Section 1901 of the Education Code is amended to read:

1901. The county board of education shall have the authority to award diplomas or certificates to prisoners enrolled in classes or schools in any county jail, county honor farm, or any county industrial farm or county or joint county road camp upon successful completion of a prescribed course of study.

SEC. 3. Section 1902 of the Education Code is amended to read:

1902. The county board of education may provide for the maintenance on Saturday of classes for prisoners in any county jail, county honor farm, or any county industrial farm or county or joint county road camp.

SEC. 4. Section 1903 of the Education Code is amended to read:

1903. For purposes of attendance, "adult" means any prisoner confined in any county jail, county honor farm or any county industrial farm or county or joint county road camp and who has enrolled in classes or schools authorized by Section 1900.

SEC. 5. Section 1904 of the Education Code is amended to read:

1904. For all schools or classes maintained by the county superintendent of schools as authorized by Section 1906 in any county jail, county honor farm, or any county industrial farm or county or joint county road camp, the Superintendent of Public Instruction shall allow the amount computed under Section 1909. For purposes of this section, the Superintendent of Public Instruction shall, by rules and regulations, establish minimum standards for the conduct of the schools or classes, including, but not necessarily limited to, class size, attendance requirements, and requirements concerning records to be kept and reports to be submitted.

SEC. 6. Section 1905 of the Education Code is amended to read:

1905. The sheriff or other official in charge of county correctional facilities may, subject to the approval of the board of supervisors, provide for the rehabilitation of prisoners confined in the county jail, county honor farm or any county industrial farm or county or joint county road camp. Such rehabilitation shall emphasize education and vocational training.

SEC. 7. Section 1906 of the Education Code is amended to read:

1906. The board of supervisors may, by ordinance, direct the county superintendent of schools to establish and maintain classes or schools for prisoners in any county jail, county honor farm, or any county industrial farm or county or joint county road camp established by the county. The county board of education shall have

the same powers and duties with respect to such schools, including the establishment of the budget deemed necessary for the operation of the school programs, as the governing board of a school district would have were such schools maintained by a school district.

SEC. 8. Section 1907 of the Education Code is amended to read:

1907. The board of supervisors, in lieu of proceeding under Section 1906, may provide for the establishment and maintenance of classes or schools in connection with the jail facilities for the education and vocational training of the prisoners. The board, by ordinance, may provide for the establishment and maintenance of school facilities in the county jail, county honor farm, or any county industrial farm or county or joint county road camp, and such schools may be maintained by the governing board of any school district maintaining secondary schools.

SEC. 9. Section 1908 of the Education Code is amended to read:

1908. (a) The board of supervisors of the county shall transfer from the general fund of the county to the county school service fund of the county superintendent of schools such sums, in excess of the amount of money received from the state by the county superintendent of schools, as the county board of education has deemed necessary to maintain the school programs in the county jail, county honor farm, county industrial farm or county or joint county road camps as described in Section 1906.

(b) The board of supervisors, in lieu of proceeding under subdivision (a), shall agree with the governing board of the school district providing classes or schools for prisoners, to transfer from the general fund of the county to the general fund of the district such sums, in excess of the amount of money received on the basis of average daily attendance in such programs, as is necessary to maintain its school programs in the county jail, county honor farm, county industrial farm or county or joint county road camps as described in Section 1907.

SEC. 10. Section 1909 of the Education Code is repealed.

SEC. 11. Section 1909 is added to the Education Code, to read:

1909. The Superintendent of Public Instruction shall allow to each county superintendent of schools maintaining schools or classes authorized by Section 1906 an amount computed as follows:

(a) He or she shall multiply the adult foundation program amount for the current fiscal year by 0.8.

(b) He or she shall divide the total assessed valuation of the county by the total of all of the average daily attendance of all elementary schools, high schools, adult schools, prisoner education schools and classes and schools maintained by the county superintendent of schools in the county.

(c) He or she shall multiply the quotient computed pursuant to subdivision (b) by 0.01.

(d) He or she shall subtract the product computed pursuant to subdivision (c) from the product computed pursuant to subdivision (a).

(e) The amount of the allowance is the product of the difference computed pursuant to subdivision (d) multiplied by the average daily attendance of prisoners educated by the county superintendent of schools.

SEC. 12. Section 1910 of the Education Code is repealed.

CHAPTER 1268

An act to amend Section 2201 of the Probate Code, and to amend Section 5353 of the Welfare and Institutions Code, relating to conservatorship.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 2201 of the Probate Code is amended to read:

2201. On or after the filing of a petition for the appointment of a conservator, the court, with or without notice as the court or judge may require, upon a verified petition establishing good cause therefor, and filed by any person entitled under Section 1754 to apply for the appointment of a conservator, may appoint a temporary conservator of the person and estate or person or estate of any person (hereinafter called a conservatee) to serve pending the final determination of the court upon the petition for the appointment of a conservator under Chapter 2 of this division.

If a temporary conservator appointed by the court proposes to fix the residence of the conservatee to a place other than that where the conservatee resided prior to the institution of the proceedings, such power shall be requested of the court in writing, unless such change of residence is required of the conservatee by a prior court order. The request shall be filed with the petition for conservatorship or, if a temporary conservatorship has already been established, separately. The request shall specify in particular the place to which the temporary conservator proposes to move the conservatee, and the precise reasons why it is believed that the conservatee will suffer irreparable harm if such change of residence is not permitted, and why no means less restrictive of the conservatee's liberty will suffice to prevent such harm.

Within seven days of the date of filing of a temporary conservator's request to remove the conservatee from his or her previous place of residence, the court shall conduct a hearing at which the conservatee shall be present unless such attendance would immediately jeopardize the conservatee's physical survival. The conservatee shall be represented by counsel, as provided in Section 1754, shall be granted the right to confront and cross-examine any witness

presented by or on behalf of the temporary conservator and to present evidence on his or her own behalf.

The court may approve the request to remove the conservatee from his or her previous place of residence only if it finds by a preponderance of the evidence that such change of residence is required to prevent irreparable harm to the conservatee, and that no means less restrictive of the conservatee's liberty will suffice to prevent such harm. If an order is made approving the request to remove the conservatee from his or her previous place of residence, the order shall specify the specific place wherein the temporary conservator is authorized to place the conservatee. The temporary conservator shall not be authorized to remove the conservatee from the State of California unless it is additionally shown that such removal is required to permit the performance of specified nonpsychiatric medical treatment, consented to by the conservatee, which is essential to the conservatee's physical survival. A temporary conservator who willfully removes a temporary conservatee from the State of California without authorization of the court is guilty of a felony.

The court shall also order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. The temporary conservator shall not be permitted to sell or relinquish, on the conservatee's behalf, any lease or estate in real or personal property used as or within the conservatee's place of residence without the specific approval of the court. Such approval shall be granted only if the conservatee has been served with notice of the hearing, such notice to be served in the same manner as is provided for the service of the petition, and only if the court finds, based upon a preponderance of the evidence, that the conservatee will be unable to return to the residence and exercise dominion over it, and that such action is necessary to avert irreparable harm to the conservatee. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that such real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on such property.

SEC. 2. Section 5353 of the Welfare and Institutions Code is amended to read:

5353. A temporary conservator under this chapter shall determine what arrangements are necessary to provide the person with food, shelter, and care pending the determination of conservatorship. He shall give preference to arrangements which allow the person to return to his home, family or friends. If necessary,

the temporary conservator may require the person to be detained in a facility providing intensive treatment or in a facility specified in Section 5358 pending the determination of conservatorship. Any person so detained shall have the same right to judicial review set forth in Article 5 (commencing with Section 5275) of Chapter 2 of this part.

The powers of the temporary conservator shall be those granted in the decree, but in no event may they be broader than the powers which may be granted a conservator.

The court shall order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in any real or personal property, including any lease or estate in real or personal property used as or within the conservatee's place of residence, without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that such real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on such property.

CHAPTER 1269

An act to amend Section 232 of the Civil Code, relating to parent and child.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent

to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under Chapter 3 (commencing with Section 1500) of Divison 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be mentally deficient or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or

parents are inmates or patients certify that such parent or parents so declared to be mentally deficient or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons each of which must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if he determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds by clear and convincing evidence that return of the child to his or her parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to

(i) Provide a home for the child;

(ii) Provide care and control for the child; and

(iii) Maintain an adequate parental relationship with the child.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period will not serve to interrupt the running of such period.

(b) A licensed adoption agency may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

SEC. 2. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan, or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts

of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons each of which must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if he determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds by clear and convincing evidence that return of the child to his parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to do the following:

(i) Provide a home for the child;

(ii) Provide care and control for the child; and

(iii) Maintain an adequate parental relationship with the child.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period will not serve to interrupt the running of such period.

(b) A licensed adoption agency may institute under this section, an action to declare a child, as described in this section, free from the

custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1596 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 232 of the Civil Code, and this bill is chaptered after Senate Bill No. 1596, that Section 232 of the Civil Code, as amended by Section 23 of Senate Bill No. 1596, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 232 proposed by this bill. Therefore, if this bill and Senate Bill No. 1596 are both chaptered and become effective on or before January 1, 1979, and Senate Bill No. 1596 is chaptered before this bill and amends Section 232, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1270

An act to amend Section 66732 of the Government Code, to amend Section 25143 of the Health and Safety Code, to amend Sections 3725, 3725.5, 3728.5, and 25120 of the Public Resources Code, to amend Section 2802 of, and to add Section 782 to, the Public Utilities Code, relating to geothermal resources.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 66732 of the Government Code is amended to read:

66732. No provision of this title or any ruling made pursuant thereto is a limitation on any of the following:

(a) The power of a city, county, city and county, or district to adopt and enforce regulations, not in conflict therewith, imposing conditions, restrictions, or limitations with respect to the handling or disposal of solid wastes.

(b) The power of any city, county, city and county, or district to declare, prohibit, and abate nuisances.

(c) The power of the Attorney General, on the request of the board, the department, the State Water Resources Control Board, a California regional water quality control board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

(d) The power of any state agency in the enforcement or administration of any provision of law which it is specifically

permitted or required to enforce or administer, including the exercise by the State Water Resources Control Board or the California regional water quality control boards of any of their powers and duties pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(e) The right of any person to commence and maintain at any time any appropriate action for relief against a nuisance as defined in the Civil Code.

(f) The right of any person to dispose of inert, nontoxic and inorganic solid waste as land fill on his own property.

(g) The right of any person to dispose of organic and toxic waste materials on his own property in evaporization ponds from which there is no drainage or seepage.

(h) The right to operate a disposal site found by the State Water Resources Control Board to be adequately regulated by another governmental agency under subdivision (b) of Section 14020 of the Water Code.

(i) The right of any person to dispose of solid or liquid waste from drilling for geothermal resources, to sumps receiving waste for one year or less with a total sump storage volume of two acre-feet or less, when such disposal is controlled by water discharge requirements of a California regional water quality control board, issued after consultation with the State Solid Waste Management Board.

SEC. 2. Section 25143 of the Health and Safety Code is amended to read:

25143. Pursuant to regulations adopted by the department, the provisions of this chapter may be waived by the department for any waste which the department determines is insignificant or unimportant as a potential hazard to human health, domestic livestock, or wildlife or the handling, processing, or disposal of which is adequately regulated by another governmental agency. Any drilling for geothermal resources shall be exempt from the requirements of this chapter because the disposal of geothermal wastes is regulated by the regional water quality control boards.

SEC. 3. Section 3725 of the Public Resources Code is amended to read:

3725. Every person who engages in the drilling, redrilling, deepening, maintaining, or abandoning of any well, except a low-temperature geothermal well, shall file with the supervisor an individual indemnity bond in the sum of twenty-five thousand dollars ($25,000) for each well drilled, redrilled, deepened, maintained, or abandoned. The bond shall be filed with the supervisor at the time of the filing of the notice of intention to drill, redrill, deepen, maintain, or abandon, as provided in Section 3724 or 3724.1. The bond shall be executed by such person, as principal, and by an authorized surety company, as surety, conditioned that the principal named in the bond shall faithfully comply with all the provisions of this chapter, in drilling, redrilling, deepening, maintaining, or abandoning any well or wells covered by the bond,

and shall secure the state against all losses, charges, and expenses incurred by it to obtain such compliance by the principal named in the bond.

The conditions of the bond shall be stated in substantially the following language:

"If said _____, the above bounden principal, shall well and truly comply with all the provisions of Chapter 4 (commencing with Section 3700) of Division 3 of the Public Resources Code and shall obey all lawful orders of the State Oil and Gas Supervisor, or his district deputy or deputies, if not appealed as provided in that chapter, or upon affirmance thereof by the Geothermal Resources Board, if appealed thereto, and shall pay all charges, costs, and expenses incurred by the supervisor or his district deputy or deputies in respect of such well or wells or the property or properties of said principal, or assessed against such well or wells or the property or properties of such principal, in pursuance of the provisions of said chapter, then this obligation shall be void; otherwise, it shall remain in full force and effect."

SEC. 4. Section 3725.5 of the Public Resources Code is amended to read:

3725.5. Any person who engages in the drilling, redrilling, deepening, maintaining, or abandoning of any low-temperature well, as defined in Section 3703.1, shall file with the supervisor an individual indemnity bond in the sum of two thousand dollars ($2,000) for each well less than 2,000 feet deep, ten thousand dollars ($10,000) for each well 2,000 feet deep or deeper, but less than 5,000 feet deep, fifteen thousand dollars ($15,000) for each well 5,000 but less than 10,000 feet deep, or twenty-five thousand dollars ($25,000) for each well 10,000 or more feet deep. The bond shall be filed with the supervisor at the time of the filing of the notice of intention to drill, redrill, deepen, maintain, or abandon, as provided in Section 3724 or 3724.1. The bond shall be executed by such person, as principal, and by an authorized surety company, as surety, and shall be in substantially the same language and upon the same conditions as provided in Section 3725, except as to the difference in the amount.

SEC. 5. Section 3728.5 of the Public Resources Code is amended to read:

3728.5. In lieu of the bond required by Sections 3723.5, 3725, 3725.5, and 3726, a person may, with the written approval of the supervisor, file a cash bond in the applicable amount, together with evidence of the deposit of such amount in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the applicable amount issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, or bonds issued by the United States or the State of California in the principal amounts of two thousand four hundred dollars ($2,400), twelve thousand dollars ($12,000),

eighteen thousand dollars ($18,000), thirty thousand dollars ($30,000) or one hundred twenty thousand dollars ($120,000) whichever is applicable, with the State Treasurer. Such bond, or security filed in lieu thereof, shall be subject to all conditions set forth in Sections 3723.5, 3725, 3725.5, and 3726.

SEC. 6. Section 25120 of the Public Resources Code is amended to read:

25120. "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with the generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells used in connection with geothermal resources development are not appurtenant facilities for purposes of this division.

SEC. 7. Section 782 is added to the Public Utilities Code, to read:

782. In order to encourage the development of geothermal resources in the State of California, the commission may, upon a complaint by a geothermal energy producer, prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest.

SEC. 8. Section 2802 of the Public Utilities Code is amended to read:

2802. "Private energy producer" includes every person, corporation, city, county, district, and public agency of the state generating or producing electricity not generated from conventional sources or natural gas for energy either directly or as a byproduct solely for his or its own use or the use of his or its tenants and not for sale to others; or generating or producing electricity, or owning the means thereof, to or for any electrical corporation, heat corporation, state agency, city, county, district, or an association thereof, but not to or for the public for any other purpose. Notwithstanding any other provision of law, a private energy producer shall not be found to be a public utility subject to the general jurisdiction of the commission solely because of conducting any activity authorized by this chapter.

CHAPTER 1271

An act to add Section 65928.5 to, and to add Article 6 (commencing with Section 65960) to Chapter 4.5 of Division 1 of Title 7 of, the Government Code, and to amend Sections 25101, 25102, 25120, and 25540 of, and to add Sections 3715.5, 21065.5, 21090.1, 25115, 25133, 25540.1, 25540.2, 25540.3, 25540.4, and 25540.5 to, the Public Resources Code, and to amend Section 2802 of, and to add Section 782 to, the Public Utilities Code, relating to energy.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 65928.5 is added to the Government Code, to read:

65928.5. "Geothermal field development project" means a development project as defined in Section 65928 which is composed of geothermal wells, resource transportation lines, production equipment, roads, and other facilities which are necessary to supply geothermal energy to any particular heat utilization equipment for its productive life, all within an area delineated by the applicant.

SEC. 2. Article 6 (commencing with Section 65960) is added to Chapter 4.5 of Division 1 of Title 7 of the Government Code, to read:

Article 6. Development Permits for Classes of Projects

65960. Notwithstanding any other provision of law, if any person applies for approval of a geothermal field development project, then only one permit from the lead agency and one permit from each responsible agency shall be required for all drilling, construction, operation, and maintenance activities required during the course of the productive life of the project, including, but not limited to, the drilling of makeup wells, redrills, well cleanouts, pipeline hookups, or any other activity necessary to the continued supply of geothermal steam to a powerplant. The lead agency and each responsible agency may approve such permits for less than full field development if the applicant submits such an application. Such permits shall include (1) any conditions or stipulations deemed necessary by the lead or responsible agency, including appropriate mitigation measures within the statutory jurisdiction of such agency, and (2) a monitoring program capable of assuring the permittee's conformance with all such conditions or stipulations. This section shall not apply to any permit whose issuance is a ministerial act by the permitting agency.

SEC. 3. Section 3715.5 is added to the Public Resources Code, to read:

3715.5. For the purposes of the California Environmental Quality Act (commencing with Section 21000), the division shall be the lead agency as defined in Section 21067 for all geothermal exploratory projects as defined in Section 21065.5. The division shall complete all its responsibilities pursuant to the California Environmental Quality Act, including public and agency review and approval or disapproval of the project, within 135 days of the receipt of the application for such project. The division may delegate its lead agency responsibility under this section to a county which has adopted a geothermal element, as defined in Section 25133, for its general plan. Any such delegation shall provide that the county complete its lead agency responsibility under this section within 135 days of the receipt

of the application for such project. The provisions of this section shall not apply to geothermal exploratory projects as defined in Section 21065.5 where, prior to January 1, 1979, preparation of an environmental impact report for such project has begun or an application for such project which will require preparation of an environmental impact report has been filed.

SEC. 4. Section 21065.5 is added to the Public Resources Code, to read:

21065.5. "Geothermal exploratory project" means a project as defined in Section 21065 composed of not more than six wells and associated drilling and testing equipment, whose chief and original purpose is to evaluate the presence and characteristics of geothermal resources prior to commencement of a geothermal field development project as defined in Section 65928.5 of the Government Code. Wells included within a geothermal exploratory project must be located at least one-half mile from geothermal development wells which are capable of producing geothermal resources in commercial quantities.

SEC. 5. Section 21090.1 is added to the Public Resources Code, to read:

21090.1. For all purposes of this division, a geothermal exploratory project shall be deemed to be separate and distinct from any subsequent geothermal field development project as defined in Section 65928.5 of the Government Code.

SEC. 6. Section 25101 of the Public Resources Code is amended to read:

25101. "Applicant" means any person who submits an application for certification pursuant to the provisions of this division, including, but not limited to, any person who explores for or develops geothermal resources.

SEC. 7. Section 25102 of the Public Resources Code is amended to read:

25102. "Application" means any request for certification of any site and related facility filed in accordance with the procedures established pursuant to this division. An applicant for a geothermal powerplant and related facilities may propose more than one site and related geothermal facilities in the same application.

SEC. 8. Section 25115 is added to the Public Resources Code, to read:

25115. "Equivalent certification program" means a program, as further defined in Section 25540.5, administered by a county and approved by the commission, which may substitute for the site and related facility certification procedures established pursuant to this division.

SEC. 8.5. Section 25120 of the Public Resources Code is amended to read:

25120. "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any

facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

SEC. 9. Section 25133 is added to the Public Resources Code, to read:

25133. "Geothermal element" means an element of a county general plan consisting of a statement of geothermal development policies, including a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including a discussion of environmental damages and identification of sensitive environmental areas, including unique wildlife habitat, scenic, residential, and recreational areas, adopted pursuant to Section 65303 of the Government Code.

SEC. 10. Section 25540 of the Public Resources Code is amended to read:

25540. If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the commission shall not require three alternative sites and related facilities to be proposed in the application. Notwithstanding the provisions of Section 25519, an application for a geothermal powerplant and related facilities shall be filed with the commission not later than 12 months before any construction is to commence. Additional facilities at a potential multiple facility site subject to Section 25540.4 shall be exempt from such 12-month requirement.

SEC. 11. Section 25540.1 is added to the Public Resources Code, to read:

25540.1. The commission shall be deemed to have accepted an application for a geothermal powerplant and related facilities on the original filing date, unless the commission shall, within 30 calendar days after the receipt of such application, have notified the applicant in writing that the application is not complete. If the application is determined not to be complete, the commission's determination shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. Upon the applicant's filing with the commission such additional information requested by the commission to make the application complete, such application shall be deemed accepted by the commission on the date of such subsequent filing.

SEC. 12. Section 25540.2 is added to the Public Resources Code, to read:

25540.2. Notwithstanding any other provision of law:

(a) If an applicant proposes to construct a geothermal powerplant at a site which the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of

the application for certification of such facility, or at such later time as is mutually agreed by the commission and the applicant.

(b) If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, that person may submit to the commission a notice of intention to file an application for certification of such site and related facility or facilities. The commission shall not require three alternative sites and related facilities to be proposed in the notice. The commission shall issue its decision, pursuant to Section 25523, within nine months from the date of filing of an application for certification of a geothermal powerplant site and related facility or facilities for which the commission has approved a notice of intention pursuant to 25516.

(c) Upon receipt of an application for certification of a geothermal powerplant and related facilities, the commission shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

SEC. 13. Section 25540.3 is added to the Public Resources Code, to read:

25540.3. (a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, such application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units which the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(2) The projected installation schedule for each unit.

(3) The impact of the site, when fully developed, on the environment and public health and safety.

(4) The amount and sources of cooling water needed at the fully developed site.

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilites, switchyards, and cooling ponds, lakes, or towers.

(6) Such other information relating to the design, operation, and siting of the facility as the commission may by regulation require.

(b) If an application is filed pursuant to subdivision (a) which proposes a site to be approved which will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the commission may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If the decision includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The commission may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to ensure that future additional facilities will not exceed the limitations of the site.

SEC. 14. Section 25540.4 is added to the Public Resources Code, to read:

25540.4. Notwithstanding any other provision of law:

(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at such later time as is mutually agreed upon by the commission and the applicant.

(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.

(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).

SEC. 15. Section 25540.5 is added to the Public Resources Code, to read:

25540.5. The commission may, at the petition of a county which has adopted a geothermal element for its general plan, approve an equivalent certification program which delegates to that county full authority for the certification of all geothermal powerplants within such county. Once approved by the commission, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within such county. The commission may, after public hearings, revoke the approved equivalent certification program of such county if the commission finds that the program does not comply with current commission certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the commission.

(d) Appeal procedures, including appeals to the commission on substantive issues. In any such appeal on a substantive issue, the

commission shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The commission shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

SEC. 16. Section 782 is added to the Public Utilities Code, to read:

782. In order to encourage the development of geothermal resources in the State of California, the commission may, upon a complaint by a geothermal energy producer, prohibit any electrical corporation from curtailing the generation, production, or transmission of electricity from a geothermal powerplant operated by such corporation, if the commission deems that such curtailment is not in the public interest.

SEC. 17. Section 2802 of the Public Utilities Code is amended to read:

2802. "Private energy producer" includes every person, corporation, city, county, district, and public agency of the state generating or producing electricity not generated from conventional sources or natural gas for energy either directly or as a byproduct solely for his or its own use or the use of his or its tenants; or generating or producing electricity, or owning the means thereof, to or for any electrical corporation, heat corporation, state agency, city, county, district, or an association thereof, but not to or for the public for any other purpose. Notwithstanding any other provision of law, a private energy producer shall not be found to be a public utility subject to the general jurisdiction of the commission solely because of conducting any activity authorized by this chapter.

CHAPTER 1272

An act to repeal and add Article 2.8 (commencing with Section 290) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to prenatal testing.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. The Legislature finds that there are several genetically transmitted diseases that cause severe retardation and overwhelming physical defects in children, which can be detected in utero. The Legislature further finds that amniocentesis can successfully detect such diseases, particularly in pregnant women

who have indications that they are an increased risk.

The Legislature further finds that in order to make amniocentesis available to women with high-risk pregnancies so that affected fetuses can be discovered, it is necessary to establish the availability of amniocentesis on a statewide basis in California.

The Legislature, therefore, finds that the aversion of human suffering and sparing of tax-supported care costs provides additional justification for state provision of this preventative service.

The purpose of this program shall be to provide a statewide system of prenatal screening using amniocentesis.

SEC. 2. Article 2.8 (commencing with Section 290) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code is repealed.

SEC. 3. Article 2.8 (commencing with Section 290) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 2.8. Prenatal Testing

290. The organizational unit of the State Department of Health Services relating most directly to maternal and child health shall administer a program for the prenatal testing, by means of amniocentesis, for genetic disorders.

291. The department shall:

(a) Establish criteria for eligibility for the program. Eligibility shall include, but not be limited to, the following:

(1) Women 35 years of age or older.

(2) Women having had a previous Down's syndrome child or a child with any other genetic disorder detectable prenatally.

(3) Pregnancies where one parent is a translocation carrier.

(4) Women who are carriers of an X-linked disease.

(5) Pregnancies where both parents are carriers of an autosomal recessive trait detectable prenatally.

(6) Pregnancies where the parents have a previous child who has a neural tube defect.

(b) Develop an education program designed to educate physicians and the public concerning the uses of amniocentesis and the availability of the program.

(c) Ensure that genetic counseling be given in conjunction with amniocentesis at the participating centers.

(d) Designate comprehensive prenatal diagnosis centers which are general acute care hospitals with the equipment and staff trained and capable of providing genetic counseling and performing amniocentesis, including the interpretation of the results of such procedure. "Comprehensive prenatal diagnosis center" includes, but is not limited to, a medical center participating in the prenatal pilot testing program conducted pursuant to the provisions of Article 2.8 (commencing with Section 290) of this chapter, as such provisions existed prior to their repeal by the Statutes of 1978.

(e) Provide each approved center with a subsidy grant based on

the number of people referred and number of prenatal diagnoses performed in the previous year and the estimated size of unmet need in their service area. Such subsidy shall be in addition to fees collected under state programs.

292. The participation by any individual in this program shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in any other program.

293. All comprehensive prenatal diagnosis centers shall meet standards developed by the department and shall agree to accept patients from state funded or administered programs including, but not limited to, Title XIX Medi-Cal, Regional Centers, Title V Maternal and Child Health and Crippled Children's Services, Genetically Handicapped Persons Programs, and Family Planning.

CHAPTER 1273

An act to amend Section 205.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in the residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a

veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans' Administration.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax

exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be fifteen thousand dollars ($15,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans' Administration. The exemption shall be fifteen thousand dollars ($15,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as

separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.2. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs or is totally disabled as a result of injury or disease incurred in military service.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans' Adminstration.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made

possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.3. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000);

provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans' Adminstration. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to

which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 2. The Controller shall report to the Legislature on the amount of the claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act. Such report shall be made on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as part of their normal operating procedures.

SEC. 4. It is the intent of the Legislature that if this bill and Assembly Bill No. 955 or Senate Bill No. 1656, or both, are chaptered and amend Section 205.5 of the Revenue and Taxation Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 955 are both chaptered and amend Section 205.5 of the Revenue and Taxation Code, but Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 955, the amendments proposed by both bills shall be given effect and incorporated in Section 205.5 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 955 is chaptered before this bill and both bills amend Section 205.5, and Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, Section 1.1 of this act shall be operative and Section 1, 1.2, and 1.3 of this act shall not become operative.

(b) It is the intent of the Legislature, if this bill and Senate Bill No. 1656 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 205.5 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1656, that Section 205.5 of the Revenue and Taxation Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656 Section 205.5 of the Revenue and Taxation Code as amended by Section 1 of this act be further amended in the form set forth in Section 1.2 of this act to incorporate the changes in Section 205.5 proposed by Senate Bill No. 1656. Therefore, Section 1.2 of this act shall become operative only if this bill and Senate Bill No. 1656 are

both chaptered and become effective on or before January 1, 1979, both bills amend Section 205.5, and this bill is chaptered after Senate Bill No. 1656, in which case Sections 1.1 and 1.3 of this act shall not become operative and Section 1.1 of this act shall become operative on the operative date of Senate Bill No. 1656.

(c) If this bill and Assembly Bill No. 955 and Senate Bill No. 1656 are all chaptered, and all three bills amend Section 205.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 955 and Senate Bill No. 1656, and this bill and Assembly Bill No. 955 both become operative January 1, 1979, that the amendments proposed by this bill and Assembly Bill No. 955 shall be given effect and incorporated in Section 205.5 in the form set forth in Section 1.1 of this act, in which case, Sections 1 and 1.2 shall not become operative, and that Section 205.5 of the Revenue and Taxation Code, as amended by Section 1.1 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656 Section 205.5 of the Revenue and Taxation Code as amended by Section 1.1 of this act be further amended in the form set forth in Section 1.3 of this act to incorporate the changes in Section 205.5 proposed by Assembly Bill No. 955 and Senate Bill No. 1656. Therefore, Section 1.3 of this act shall become operative only if this bill, Assembly Bill No. 955, and Senate Bill No. 1656 are chaptered and become effective on or before January 1, 1979, and amend Section 205.5, and this bill is chaptered after Assembly Bill No. 955 and Senate Bill No. 1656, in which case Section 1.3 of this act shall become operative on the operative date of Senate Bill No. 1656.

CHAPTER 1274

An act to add Article 4 (commencing with Section 270) to Chapter 3 of Part 1 of Division 2 of, and to add Chapter 10 (commencing with Section 480) to Part 1 of Division 2 of, the Military and Veterans Code, relating to the California National Guard, and making an appropriation therefor.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Article 4 (commencing with Section 270) is added to Chapter 3 of Part 1 of Division 2 of the Military and Veterans Code, to read:

Article 4. Farm and Home Purchase

270. This article may be cited as the California National Guard Members' Farm and Home Purchase Act of 1978.

270.01. (a) The Legislature finds and declares that the California National Guard exists to provide a military organization in California with the capability to:

(1) Protect the lives and property of the people of the state during periods of natural disaster and civil disturbances.

(2) Perform other functions required by the California Military and Veterans Code or as directed by the Governor.

(3) Provide military units ready for federal mobilization.

(b) The Legislature further finds and declares that the California National Guard performs an essential public purpose in protecting the health, safety, and property of California's citizens; that in order to fulfill its objectives, it is necessary for the California National Guard to have sufficient human resources; and that the elimination of the military draft has had a negative impact on the California National Guard's ability to maintain an adequate strength level to meet its responsibilities, so that the Military Department is concerned that it may not be able to provide adequate manpower to deal with natural or man-caused disasters and emergencies.

(c) It is, therefore, the intent of the Legislature that, to fulfill the public program of maintaining required strength in the California National Guard, an enlistment inducement should be provided by making low-interest farm and home loans available to members who serve the state faithfully for a period of at least one year of a regular enlistment period, since incentive programs such as this have been highly successful in other states and have resulted in substantially higher enlistment rates; and that, in addition, such a program would enhance the concept of a volunteer armed service by granting a state benefit at no anticipated cost to the taxpayer.

(d) The Legislature further finds and declares that the enactment of this article serves a substantial public purpose and that members of the California National Guard are benefited only as an incident to the general public purpose intended by this article.

270.02. The provisions of this article are applicable, and the benefits conferred thereby are available, to the following part-time National Guard members:

(a) Commissioned officers of the grade of captain (0-3) and below.

(b) Warrant officers of the grade of W-4 and below.

(c) Enlisted members of the grade of E-9 and below.

270.03. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as

a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode. A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Member" means a member of the California National Guard who is not a full-time employee of the Military Department.

270.04. The administration of the provisions of this article is vested in the Military Department, except that the department may, pursuant to an interagency agreement or other arrangement, assign any function to the Department of Veterans Affairs or the California Housing Finance Agency after 90 days notice to the Joint Legislative Budget Committee.

The department shall adopt rules and regulations in keeping with the purpose of this article to establish preferences in the granting of

benefits conferred by this article.

270.05. (a) No benefits shall be awarded pursuant to this article nor application therefor accepted until on and after January 1, 1980. Persons becoming members on and after January 1, 1979, shall, to be eligible for benefits pursuant to this article, be enlisted or commissioned for a period of not less than six years and shall have not less than one year of satisfactory service at the time of application for benefits.

(b) Members as of January 1, 1979, shall, to be eligible for benefits pursuant to this article, have not less than one year of satisfactory service at the time of application and shall extend their commitment for the minimum amount of time prescribed by federal law or regulation.

(c) No member shall be eligible for benefits pursuant to this article who has previously received benefits pursuant to the Veterans' Farm and Home Purchase Act of 1943, Article 3 (commencing with Section 985) of Chapter 6 of Division 4, or the Veterans' Farm and Home Purchase Act of 1974, Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4.

270.06. The department shall prescribe and determine the qualifications of all members. Any member desiring to benefit hereunder, shall submit to the department information, in such form as the department prescribes, which will enable the department to determine his eligibility and qualifications. The department may make further inquiries and investigations in order to determine such eligibility and qualifications. Members who are otherwise qualified and who were wounded or disabled as a result of their service shall be given first preference in the benefits conferred by this article. The department shall determine, in each case, whether or not the member was wounded or disabled as a result of service.

The following group shall be given second preference in the benefits conferred by this article:

(a) The unremarried spouse of members killed in the line of duty.

(b) The unremarried spouse of members designated by the armed forces as missing in action.

Nothing in this section regarding preferences shall affect any eligibility requirement for benefits conferred by this article.

270.07. All applications for the benefits contained in this article shall be filed with the department within 25 years from the date of the applicant's discharge from the National Guard, except applications filed by either:

(a) Members who were wounded or are disabled as a result of National Guard service; or

(b) Members who were previously declared prisoners of war.

270.08. (a) If a member dies after filing his application for a farm or a home, and his application setting forth his eligibility and qualifications is subsequently approved, the member's surviving spouse may, in the discretion of the department, succeed to his rights under the application, and may be entitled to the rights, privileges,

and benefits under this article that would have been his, but for his death. The contract of purchase which the department otherwise would have made with such member may be made with the member's surviving spouse.

(b) If a member was killed in the line of duty, he shall be considered to be a "member" for the purposes of this article, and the member's unremarried spouse may file an application, may be entitled to the same rights, privileges and benefits and may contract with the department as provided in the case of a surviving spouse under the provisions of subdivision (a) of this section.

270.09. When a member has been authorized by the department to select a farm or home, he shall submit his selection in such form as the department prescribes.

270.10. The department may acquire such farm or home from the owner thereof or may contract with a member for the construction of a dwelling house and other improvements for a farm or home, upon the terms agreed if:

(a) The department is satisfied of the desirability of the property submitted.

(b) The member has agreed with the department that he or his immediate family will actually reside on the property within 60 days from the date of purchase by the department, or if the residence on the property is not complete on the date of purchase, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements does not exceed forty-three thousand dollars ($43,000).

(d) Where the department is to contract with a member for the construction of a dwelling house and other buildings, or for the purchase of a mobilehome:

(1) The member is the owner in fee of the real property on which the dwelling house and other buildings are to be constructed, or is the owner in fee of the real property or the owner of an undivided interest in common in a portion of a parcel of real property on which a mobilehome is to be situate, and agrees to convey that property to the department without cost.

(2) The member has paid a reasonable fee set by the department to cover the cost of such preliminary service of the department as may be necessary to process the application.

(3) The member has filed with the department adequate plans and specifications for the improvements to be constructed upon said real property, together with a contract, executed by a contractor licensed by the State of California for the construction of said improvements in accordance with said plans and specifications within eight months after the acquisition of said real property by the department, and a bond executed by the contractor providing for compliance with the terms of said contract and for the payment of materialmen and labor furnishing material or labor on the jobs,

executed by a surety company, authorized to do business in the State of California.

(4) The plans, specifications, contract and bond are approved by the department.

(5) The member has placed in escrow, all sums of money to be advanced by him where the cost is in excess of the maximum that may be expended by the department.

As used in this section "immediate family" includes only the following:

Spouse, children, either natural or adoptive; and the parents if they are dependent upon the member for 50 percent or more of their support.

270.11. The department may purchase property, subject to a participation contract providing for a loan term of not less than 23 years. In no event shall the purchase price plus the participation contract exceed forty-three thousand dollars ($43,000) or equal more than 95 percent of the market value of the property as determined by department appraisal, whichever is the lower amount.

270.12. The department, after consummating a purchase under the provisions of this article and the member having occupied the property as required by Section 270.10, may waive the occupancy requirement for a period not to exceed four years on a showing of good cause. The department may also waive the occupancy requirement for any period of time if the property is a farm and if the member personally cultivates the property and harvests the crops or tends livestock. The department shall establish standards for the occupancy waiver and shall make those standards known.

270.13. Notwithstanding other provisions of this article relating to the occupancy, leasing, letting, or subletting of a farm or home acquired pursuant to this article, the department, with respect to any member who after consummating a purchase of a farm or home under this article and occupying such farm or home enters the active military, naval, or air service of the United States, may waive the occupancy requirement for the period of such active service and for a reasonable period subsequent to the termination of such active service and consent to the leasing, letting, or subletting of the farm or home during such period or periods.

270.14. The department shall not acquire a home under the provisions of this article where the market value of the improvements exceeds the sum of fifty-three thousand dollars ($53,000), to be determined by an appraiser or an authorized representative of the department.

270.15. The purchase price of a home to the department shall not exceed the sum of forty-three thousand dollars ($43,000), except that the purchase price of a mobilehome, as defined in subdivision (k) of Section 270.03, to the department shall not exceed thirty thousand dollars ($30,000), and a member purchasing the home may advance, subject to the provisions of Section 270.14, the difference between the total price or cost of the home and the sum of the purchase price

of the home to the department and any amount the department is required under Section 270.19 to add to the purchase price of the home in fixing the selling price thereof to the member. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred twenty thousand dollars ($120,000), and a member purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 270.19 to add to such purchase or contract price to the department in fixing the selling price of the farm to the member.

270.155. The maximum purchase price for a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code, shall be twenty-two thousand five hundred dollars ($22,500), with an amortization period not to exceed 25 years. For purchases under the provisions of this section, the department shall charge a rate of interest one percent higher than that which is charged to purchasers of conventional housing or of a mobilehome sited on a lot owned by the purchaser.

270.156. A mobilehome which is purchased under this article shall not be moved from its original site to any other location, without first obtaining prior authorization from the department.

Any person who moves or causes to be moved a mobilehome under this act, without first obtaining approval from the department, shall be jointly and severally liable to the department for the full amount of the mobilehome loan balance.

270.16. The department may acquire a farm in which the member to whom such farm is to be sold has theretofore acquired an interest.

270.17. Before the purchase of any property by the department there shall be filed with the department (1) an appraisement of the market value of the property by an employee or an authorized agent of the department or (2) in lieu of the appraisal by the department, the department may accept an appraisement of the market value of the property by either the Federal Housing Administration or the Veteran's Administration, and in addition there may be filed with the department an appraisement of the market value of the property by an authorized appraiser of a banking corporation formed under the laws of this state or of a national banking association having a place of business in this state. Each appraisement shall be certified by the maker thereof. The certification shall state that it is made in good faith, and that the valuation is honestly determined and represents the bona fide opinion of the maker.

270.18. The department, before consummating a purchase under the provisions of this article, shall cause the title of the property sought to be purchased to be examined and may require for that

purpose an abstract, an unlimited certificate of title, or a policy of title insurance, and may refer the same to the Attorney General for his opinion.

270.19. The department shall then enter into a contract with the member for the sale of the property to the member. The department shall fix the selling price of the property by adding to the purchase price thereof, to the total cost of improvements constructed, or to the value of such property as determined by the department when such property is acquired by the department in a manner other than by purchase, all expenses incurred and estimated to be incurred by the department in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. In the case of real property acquired from a member for the purpose of constructing improvements thereon, the department shall forthwith after acquiring said real property enter into the contract with the member authorized by this section at a selling price determined by the amount of the contract price for the improvements and any of the other additions herein authorized. After the execution of said contract between the member and the department and the making of the initial payment thereon the department shall be authorized to pay the cost of the improvements contracted to be constructed on said real property, making progress payments thereon in such amounts and at such times as the department approves. The department shall upon written request of the member and his contractor have authority to approve additions to or deletions from the improvements contracted to be constructed and any savings affected or added cost incurred shall be deducted from or added to the amount due the department by the member under the terms of his contract.

270.20. For the purposes of this article, any member who is under the age of 18 shall be deemed to be of the age of majority and to be an adult person for the purpose of entering into any contract for the purchase of a farm or home from the department or any other contract with respect to such property.

270.21. The purchaser shall make an initial payment of at least 5 percent of the selling price of the property. Purchasers of homes where the purchase price is equal to or less than thirty-five thousand dollars ($35,000) shall make an initial payment of at least 3 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department appraisal shall equal the amount to be paid by the department plus at least 5 percent where the purchase price is greater than thirty-five thousand dollars ($35,000). In the case of homes where the purchase price is equal to or less than thirty-five thousand dollars ($35,000), the department may waive the initial payment where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 3 percent. The balance of the purchase price

may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes, but not exceeding 25 years for mobilehomes, together with interest thereon at the rate as determined by the department pursuant to Section 270.37 for such amortization purposes. The purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the department may for good cause postpone from time to time upon terms as the department deems proper, the payment of the whole or any part of any installment of the purchase price or interest thereon. Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and such amount as may be required by any covenant or provision contained in any resolution of issuance.

270.22. The provisions of Section 270.21, relative to the rate of interest to be charged to member purchasers do not apply to assignees of such purchasers who are not members, but as to such assignees the rate of interest shall be as fixed by the department, compounded at periods fixed by the department.

270.23. (a) Except as provided in subdivision (b), the department in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under the provisions of this article shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, nor shall any mobilehome be removed from its original site, except in case of emergency where temporary removal is necessary to avoid potential damage, without the written consent of the department, until the purchaser has paid therefor in full and has complied with all the terms and conditions of this contract of purchase.

(b) The consent of the department shall not be required where a member, alone or jointly with his spouse, transfers his interest in property which is the subject of a loan agreement with the department into a revocable trust established for the benefit of the member or of the member and his spouse.

270.24. The contract made between the department and purchaser shall provide that the purchaser maintain the farm or home as his place of residence and keep in good order and repair all buildings, fences, and other permanent improvements situate thereon and that the purchaser, if required, insure and keep insured against fire or other hazards, all buildings, fences, other permanent improvements, or crops on the property, loss, if any, under the policies therefor to be made payable to the department as its interest appears. Insurance shall be in the amount, with the insurance companies, and under the conditions specified by the department.

270.25. If the purchaser fails or neglects to pay, satisfy, and discharge at maturity all taxes and assessments, and all other charges and encumbrances which are a lien upon the property being purchased from the department, or any part thereof, and also all

taxes and assessments levied or assessed upon the interest created by the contract of purchase of such property; or to keep the buildings, fences, other permanent improvements upon such property insured and in good order and repair, or to keep the crops upon such property insured; or to keep in good order and repair all buildings, fences, and other permanent improvements, situated upon such property; then, in such event, the department may pay, satisfy, discharge, settle, or compromise the taxes, assessments, charges, or encumbrances, or insure the buildings, fences, permanent improvements, or crops, or do the work and supply the materials necessary to keep the buildings, fences, and other improvements in good order and repair. All moneys so expended by the department shall be added to the selling price of the property and bear interest at the rate of interest designated in Section 270.21 from the date of expending the same, and shall be repaid by the purchaser to the department on demand. The department may amortize the repayment of such expenditures or permit repayment in installments upon the terms and conditions which it deems proper.

270.26. The department shall be the sole judge of:

(a) The legality or validity of taxes, assessments, charges, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

(b) The amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops and the amount necessary to be paid for the premiums for such insurance.

(c) The necessity and nature of the work necessary to keep the buildings, fences, and other improvements in good order and repair, and the amount necessary to be paid therefor.

270.265. In the event of the purchaser's failure to comply with the terms of his military obligation, the department may adjust the interest rate of the contract of purchase to the current market rate of interest for home purchase contracts or similar obligations, or may proceed in accordance with the provisions of Section 270.27.

270.27. In the event of a failure of a purchaser to comply with any of the terms of his contract of purchase or of his military obligation, the department may cancel such contract, and thereupon be released from all obligations, at law or in equity, to convey the property, and the purchaser shall forfeit all right thereto. All payments theretofore made shall be deemed to be rental paid for occupancy. Upon such forfeiture, the department shall take possession of the property covered by such contract, and shall remove all persons and personal property therefrom without any liability whatsoever on the part of the department or of any official or employee thereof for any damage or injury caused by or incident to the entry or removal. The failure of the department to exercise any option to cancel or to exercise any other privilege under such contract for any default shall not constitute a waiver of the right to exercise such option or privilege for any other default on the part of the purchaser.

270.28. In the event of a forfeiture of a contract of purchase under the provisions of this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to such person and upon such terms and conditions as it deems proper.

In the event such property is subject to a participation contract the department may, at its option, pay the balance due upon such participation contract, including accrued interest without penalty.

270.29. The department may, in the contract of purchase with a member provide that, in the event of default by the member and forfeiture of his rights under the contract and subsequent sale of the property by the department, it may pay to him any net gain realized by the department upon the sale. The department is the sole judge of the net gain.

270.30. The department may insure and keep insured against fire or other hazards all buildings, fences, other permanent improvements, or crops situated upon any property which has reverted to and is under the control of the department, or may do the work and supply the materials necessary to keep the buildings, fences, and other improvements situated upon the property in good order and repair. The department may lease or let the property, in whole or in part, upon such terms as it deems proper. In the case of a farm, the department may cultivate the farm or harvest the crop.

270.31. If illness or acccident prevents a purchaser of a farm from cultivating his farm or harvesting any crop, the department may enter and cultivate the farm or harvest the crop. In such event the department has a first lien upon the crop for all moneys expended and may sell the harvested crop. Out of the proceeds of the sale the department may reimburse itself for any expense which it has incurred in the cultivation of the farm, the harvesting of crops and the sale thereof, and retain any moneys due to the department from the purchaser. Any balance shall be paid by the department to the purchaser.

270.32. When a purchaser dies, indebted to the department under contract of purchase, his rights acquired under this article and such contract shall devolve upon his heirs, devisees, or personal representatives, but subject to all rights, claims, and charges of the department. Default on the part of an heir, devisee, or personal representative, with respect to any right, claim, or charge of the department shall have the same effect as would default on the part of the purchaser but for his death.

270.34. The right to declare a forfeiture for breach of a condition contained in any deed to real property may not be enforced as against the interest of the department in said real property or any portion thereof.

270.35. The department shall not acquire a home in which the member has an interest of record except in the following instances:

(a) Where the application is for aid for the construction of a home upon unimproved real property owned by the applicant.

(b) Where the member had no interest of record in the property

at the time of filing his application and thereafter secured interim financing pending the processing and approval of his application by the department.

(c) Where the application is to pay the balance due on an existing loan not insured or guaranteed by the federal government, and which bears an interest rate of more than 2 percent higher than the prevailing rate pursuant to this article.

(d) Where the application is for purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant.

270.36. (a) Any member for whom a farm or home is purchased under this article may be granted a subsequent opportunity to purchase another farm or home when the farm or home purchased under this article is sold because of any of the following:

(1) Condemnation proceedings instituted by a public agency.

(2) A change in the member's employment which compels a change in residence location.

(3) The health of a member or of a member of his immediate family compels a change in residence location.

(4) Any increase or decrease in the member's obligation to provide housing for dependents has resulted in the livable area of the house being inadequate or excessive for the member's current housing needs.

(5) Increased real property taxes beyond the member's ability to pay.

(b) The provisions of subdivision (a) shall apply only if the member pays his purchase contract in full, applies for a subsequent loan within six months from date of sale and pays toward the purchase of the new farm or home the net equity received from sale of the former property.

(c) Only one farm or home purchased under this article shall be owned by a member or a member and the member's spouse at any one time under the provisions of this article.

(d) Any member for whom a farm or home is purchased under this article may be granted a subsequent opportunity to purchase another farm or home if he has paid his purchase contract in full, and the member's spouse each qualify as a member.

270.365. There is hereby created the California National Guard Finance Committee. The membership of the committee shall consist of the State Controller, the State Treasurer, the Director of Finance, the Commanding General of the State Military Forces, and the Director of Veterans Affairs.

270.37. (a) The department shall establish the actual interest rate to be paid. To this end the department, by a two-thirds vote of California National Guard Finance Committee members, is empowered to establish a uniform rate of interest payable upon the amount remaining unpaid under any member's purchase contract. The California National Guard Finance Committee shall periodically, at least once each year, make a finding as to the rate of

interest to be charged, determined by a floating rate based upon the actual cost of revenue bond sales, plus a certain percent for administrative costs to be determined annually by the committee, taking into consideration the current value of money and the solvency of the California National Guard Members' Farm and Home Building Fund of 1978, and the interest paid on participation contracts to which the interest of the department is subject. The California National Guard Finance Committee may raise or lower the effective rate of interest payable under such contracts for any given period as many times and as frequently as it deems to be for the best interest of the department, as well as the contract holders, if in so doing its action is made applicable alike to any and all contracts executed after the effective date of this section, and 90 days' advance notice be given of the time when the new rate of interest is to become effective.

(b) The total amount of any installment payment shall be raised or lowered to reflect a change in the effective rate of interest. However, the department shall, upon request of the purchaser, instead increase or decrease the period fixed by the department for amortization of the purchase price without changing the amount of the installment payment. The department shall provide the purchaser with full information as to the repayment options available to him under this subdivision and, upon request of the purchaser, the financial consequences of each such option. The actual interest rate to be paid on the amount remaining unpaid under any member's purchase contract shall be a rate of interest which, when combined with the interest paid on the unpaid balance of a participation contract to which the department's interest is subject equals the effective rate of interest.

270.38. In the event the department enters into a master agreement with one or more insurance companies to provide life insurance coverage for the purchasers of farms and homes from the department, the master agreement shall provide that the life insurance coverage offered under the master agreement will be offered by the insurance company or companies to disabled and nondisabled members on an equal basis and that no member shall be denied coverage because that member is disabled at the time of application.

270.39. The action of a member purchaser for damages against any third party does not affect his right of action for all damages against any party other than the department. If the department indemnifies, or becomes obligated to indemnify, the member purchaser, it may likewise bring an action against any such third party responsible for damage to the contract property. In the latter event, the department may recover in the same suit all payments made on behalf of the member purchaser.

If either the member purchaser or the department brings an action against such third party, the member purchaser or the department, as the case may be, shall forthwith give to the other

written notice of the action and of the name of the court in which the action is brought, by personal service or registered mail. Proof of such service shall be filed in such action. If the action is brought by either the member purchaser or the department, the other may, at any time before trial on the facts, join as party plaintiff, or shall consolidate the action if brought independently.

The court shall first apply, out of the entire amount of any judgment for any damage recovered by the member purchaser, a sufficient amount to reimburse the department for the amount of its expenditures for indemnification. If the department has not joined in the action or has not brought action, or if the action has not been consolidated, the court, on the department's application, shall allow as a first lien against the entire amount of any judgment for any damages recovered by the member purchaser, the amount of the department's expenditures for indemnification.

270.41. The department is authorized to issue to lenders or investors supplying funds for the program a participation contract.

SEC. 2. Chapter 10 (commencing with Section 480) is added to Part 1 of Division 2 of the Military and Veterans Code, to read:

CHAPTER 10. CALIFORNIA NATIONAL GUARD MEMBERS' REVENUE BOND ACT OF 1978

Article 1. General Provisions

480. This chapter may be cited as the California National Guard Members' Revenue Bond Act of 1978.

480.1. This chapter shall be liberally construed to carry out the objects and purposes and the declared public policy of the State of California as set forth in the California National Guard Members' Farm and Home Purchase Act of 1978, Article 4 (commencing with Section 270) of Chapter 3 of this part.

480.2. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Department" means the Military Department of the State of California, as the same is constituted by the provisions of Section 50, and any successor to such office, or the Department of Veterans Affairs or the California Housing Finance Agency as to any function assigned pursuant to the provisions of Section 270.04.

(b) "Person" means any individual, firm, corporation, association, partnership, trust, business trust, or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or agency of this state.

(c) "Purchase contract" means a contract of sale entered into after the effective date of this chapter by the department and a National Guard member covering any property purchased or acquired by the department as may be provided in any resolution of

issuance.

(d) "Resolution of issuance" means a resolution of the department, approved by the National Guard Members' Finance Committee, pursuant to which revenue bonds are issued, and any amendatory or supplemental resolution.

(e) "Revenue bond" means any written evidence of any obligation issued by the department pursuant to this chapter, payment of which is secured by a pledge of revenues, as provided in this chapter, irrespective of the form of such obligation.

(f) "Revenue bondholder" means any person who shall be the bearer or registered owner of any outstanding revenue bond.

(g) "Revenues" means all income and receipts of the department from the purchase contracts, including, without limiting the generality of the foregoing, all payments received on account of the selling price and interest thereon; expenses and all other charges added to the selling price; insurance proceeds collected on account of loss, damage, or injury to the property; life insurance or disability insurance proceeds received by the department; and all other receipts of whatsoever kind or nature arising out of or incident to the purchase contracts. The term "revenues" also includes all interest or other income from any investment of any moneys in any fund or account established under a resolution of issuance for the payment of the principal of, or interest or premium on, revenue bonds.

(h) "California National Guard member" shall have the meaning set forth in Section 210.

(i) "California National Guard Finance Committee" means the committee created pursuant to Section 270.365.

Article 2. Authorization and Issuance of Bonds

481. Revenue bonds may be issued by the department at such times and in such amounts as do not exceed seventy-five million dollars ($75,000,000) for home loans, fifteen million dollars ($15,000,000) for farm loans, and ten million dollars ($10,000,000) for mobilehome loans as the department, with the approval of the California National Guard Finance Committee, may determine.

481.1. Whenever the department determines that revenue bonds should be issued, it shall adopt a resolution of issuance, which shall be executed for the department by the Commanding General of the California National Guard. Each resolution of issuance so adopted by the department shall be submitted to the California National Guard Finance Committee which shall consider and approve or disapprove any resolution of issuance so submitted. Upon such approval, by a resolution adopted by a majority of the members of the California National Guard Finance Committee, the resolution of issuance shall become effective and the State Treasurer shall cause the revenue bonds authorized thereunder to be prepared in accordance with the terms of the resolution of issuance.

481.2. Revenue bonds shall be issued in the name of the

department and as the obligation of the department, but neither the principal of, nor the interest on, any revenue bonds shall be or become a lien, charge or liability against the State of California, the department, or the California National Guard Finance Committee, or against the property or funds of any of them, except to the extent of the pledge of revenues as may be provided by the resolution of issuance pursuant to which such revenue bonds are issued. Every revenue bond shall contain a recital substantially as follows:

"Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond."

481.3. All revenue bonds shall bear the facsimile signature of the Commanding General of the California National Guard and the State Controller and shall be endorsed by the State Treasurer either by original signature or by signature stamp. The Great Seal of the State of California shall be impressed, mechanically reproduced, or imprinted by facsimile upon each revenue bond. The interest coupons attached to any revenue bond shall bear a facsimile of the signature of the State Treasurer. In case any such official whose signature or countersignature appears on the revenue bonds or coupons shall cease to be such official before the revenue bonds so signed or countersigned shall have been actually executed or delivered, such signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until the delivery of the revenue bonds and such revenue bonds and coupons shall be issued and shall be as binding upon the department as though the person who signed such revenue bonds or coupons had been such official on the date borne by the revenue bonds or coupons and on the date of delivery. Any such revenue bonds may be signed and sealed on behalf of the department by such person as at the actual date of execution of such revenue bonds shall be the Commanding General of the California National Guard or the State Treasurer or the State Controller, as the case may be, although on such date as may be borne by such revenue bonds any such person shall not have been such official.

481.4. The validity of the authorization and issuance of any revenue bonds shall not be dependent on or affected by the validity or regularity of any proceedings relating to the expenditure of the proceeds thereof or the validity of any purchase contracts or payments received thereon pledged to pay revenue bonds.

481.5. Reference on the face of any revenue bonds to a resolution of issuance by its date of adoption, or the apparent date on the face thereof, shall be sufficient to incorporate all of the provisions thereof and of this chapter into the body of the revenue bonds and their appurtenant coupons. Each taker and subsequent holder of the revenue bonds or coupons, whether the coupons are attached to or detached from the revenue bonds, shall have recourse to all of the provisions of the resolution of issuance and of this chapter and shall be bound thereby.

Article 3. Provisions of Resolution of Issuance and Supplemental Resolutions

482. A resolution of issuance may provide for the issuance of revenue bonds in one or more series and for the aggregate principal amount of any series thereof. Any series of revenue bonds may consist of serial revenue bonds or of term revenue bonds with sinking fund requirements or partially of serial revenue bonds and partially of term reveue bonds with sinking fund requirements. A resolution of issuance may provide for such supplemental resolutions of issuance as may from time to time be required to fix and determine the terms and conditions of each series of revenue bonds.

482.1. A resolution of issuance may provide for the dates to be borne by revenue bonds and by each series issued thereunder and for the dates of maturity thereof.

482.2. A resolution of issuance may provide for the payment of interest on revenue bonds annually or semiannually or in part annually and in part semiannually, upon such dates and at such rates as may be provided for by the California National Guard Finance Committee. The first interest payment may be at any time on or before one year from the date of the revenue bonds.

482.3. A resolution of issuance may provide for the call and redemption of revenue bonds issued thereunder, upon such terms, conditions and notice, and upon the payment of such premium, as may be fixed in said resolution. No revenue bond shall be subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the revenue bond.

482.4. A resolution of issuance may provide for the forms, denominations, registration, transfer, and interchange of revenue bonds issued thereunder. Revenue bonds may be issued as coupon revenue bonds or as registered revenue bonds in any denomination or denominations authorized by the resolution of issuance. A resolution of issuance may provide for the interchange of coupon revenue bonds and registered revenue bonds, and may provide for the registration of coupon revenue bonds as to principal only or as to both principal and interest. Revenue bonds of different denominations, in either coupon or registered form, may be made exchangeable for revenue bonds of an equal aggregate principal amount, but of different denominations upon such terms as may be provided in the resolution of issuance.

482.5. A resolution of issuance may provide for the replacement of lost, destroyed, or mutilated revenue bonds or coupons.

482.6. A resolution of issuance may provide for the issuance of temporary or interim revenue bonds, certificates, or receipts pending the preparation and delivery of definitive revenue bonds. Such temporary or interim revenue bonds, certificates, or receipts may be of any denomination and with or without coupons.

482.7. A resolution of issuance may provide for the payment of the principal and interest of revenue bonds at any place within or

without the State of California and in specified coin or currency of the United States and may include a covenant to maintain, in each city in which any outstanding revenue bonds shall be expressed to be payable, an office or agency where such revenue bonds and interest coupons thereon may be presented for payment.

482.8. A resolution of issuance shall provide the means by which payments of principal and interest of revenue bonds shall be secured.

482.9. A resolution of issuance may include a provision requiring the department to pay or cause to be paid punctually the principal of all revenue bonds issued thereunder and the interest thereon, on the dates, at the places and in the manner provided in such revenue bonds and in the coupons appertaining thereto.

483. A resolution of issuance may include a provision requiring the department to preserve and protect the security of the revenue bonds and the rights of the holders thereof and to warrant and defend such rights.

483.1. A resolution of issuance may include provisions requiring, specifying, or limiting the kind, amount, and character of insurance to be maintained by the department on any property under the jurisdiction of the department and the use and disposition of the proceeds of any such insurance thereafter collected.

483.2. A resolution of issuance may include a provision requiring the department to charge a uniform rate of interest on the unpaid balance of the purchase price of any and all properties acquired by the department and sold to California National Guard members.

483.3. A resolution of issuance may include provisions requiring the department to hold or cause to be held in trust the revenues, or any part of the revenues, pledged to the payment of revenue bonds and the interest thereon, and to apply or cause to be applied revenues or such part of revenues, only as provided in the resolution of issuance.

483.4. A resolution of issuance may include provisions establishing the amount and terms of purchase contracts to be held in trust in relation to the revenue bonds that are outstanding, including the setting of both maximum and minimum required levels in terms of percentages or otherwise, and such provisions may also:

(a) Prescribe the method for setting the value of any outstanding purchase contracts;

(b) Continue authorization for the department to withdraw purchase contracts or other assets in excess of the maximum required level; and

(c) Permit substitution of purchase contracts or other security under appropriate limitations.

483.5. A resolution of issuance may include a provision authorizing, or limiting the power of, the department to issue additonal revenue bonds and establishing; the terms and conditions upon which additional bonds may be issued.

483.6. A resolution of issuance may inc ude a clause providing the

events of default and the terms and conditions upon which any or all of the revenue bonds then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

483.7. A resolution of issuance may include provisions establishing the rights, powers and duties arising upon breach by the department of any of the covenants, conditions or obligations contained therein.

483.8. A resolution of issuance may include provisions prescribing a procedure by which the terms and conditions of the resolution may be subsequently amended or modified with the consent of the department and the California National Guard Finance Committee and the vote or written consent of the holders of a specified principal amount or specified proportion of the revenue bonds issued and outstanding. Such provisions may include provisions for meetings of revenue bond holders and for the manner in which the consent of the revenue bondholders may be given. A resolution of issuance may provide that the revenue bonds held by the department or by the State of California or any political subdivision, public corporation, or agency thereof shall not be counted as outstanding revenue bonds or be entitled to vote or consent, but shall nevertheless be subject to any such modification or amendment.

483.9. A resolution of issuance may provide that the revenue bonds issued thereunder and the interest thereon shall be secured by all or part of the revenues, and may establish a lien upon the revenues as the department, with the approval of the California National Guard Finance Committee, shall determine.

484. A resolution of issuance may include a covenant that the department will duly pay and discharge, or cause to be paid and discharged, any taxes, assessments, or other governmental charges lawfully imposed upon any properties owned by or under the jurisdiction of the department, or upon the revenues, as well as any lawful claim for labor, materials, or supplies which, if unpaid, might become a lien or charge upon the revenues, or which might impair the security of the revenue bonds.

484.1. A resolution of issuance may include provisions requiring the preparation, filing, and publication of financial statements with respect to the revenues, the funds securing the revenue bonds, and the expenses, properties, and operations of the department, including provisions for examinations and reports by independent certified public accountants.

484.2. A resolution of issuance may include a convenant that the department will at all times use its best efforts to maintain the powers, functions, duties, and obligations reposed in it pursuant to law at the time of adoption of such resolution, and that it will not at any time voluntarily do, suffer, or permit any act or thing, the effect of which would be to hinder, delay, or imperil the payment of the indebtedness evidenced by any of the revenue bonds or the

performance or observance of any of the covenants contained in such resolution.

484.3. A resolution of issuance may include provisions requiring, permitting, restricting, or governing the deposit and investment of funds established for the security of revenue bonds issued thereunder, and requiring that such deposits be secured or specifying the type of security required for such deposits irrespective of any law authorizing or permitting such deposit or investment of public funds generally.

484.4. A resolution of issuance may include a covenant that the department will make or adopt and execute, or cause to be made, adopted, and executed, any and all such further resolutions, acts, deeds, conveyances, assignments, or assurances as may be reasonably required for effectuating the intention of the resolution of issuance and for better assuring and confirming unto the holders of the revenue bonds the rights and benefits provided in the resolution of issuance.

484.5. A resolution of issuance may include any and all covenants and agreements on the part of the department, and for such other acts or matters which the department, subject to the approval of the California National Guard Finance Committee, deems necessary or convenient or advisable for the better security of the revenue bonds issued thereunder or to make the revenue bonds more marketable.

484.6. The resolution of issuance may provide for the appointment of a trustee, depositary, and fiscal agent, which shall be a bank or trust company duly qualified to do business in this state, to receive and disburse all the revenues applicable to the payment of the principal of or interest on the revenue bonds, including any reserve fund, sinking fund, or other fund or account established for further securing the revenue bonds, and may provide for or authorize the payment of the compensation of such trustee or fiscal agent, but if for any reason such appointment is held to be invalid, such appointment is expressly severable and shall not affect the validity of the revenue bonds and the State Treasurer shall be substituted in lieu of such invalid appointee.

Article 4. Appropriation, Security, Sale and Funds

485. There is in the State Treasury, a revolving fund known as the California National Guard Members' Farm and Home Building Fund of 1978. Proceeds of the sale of revenue bonds issued for purposes of the California National Guard Members' Farm and Home Purchase Act of 1978 shall be deposited in this fund. Money may be withdrawn from such fund in accordance with law upon requisition of the department or such other state agency as may be designated pursuant to Section 270.04 for the purpose of carrying out the California National Guard Members' Farm and Home Purchase Act of 1978.

485.1. There is hereby created in the California National Guard

Members' Farm and Home Building Fund of 1978, a special account known as the National Guard Members' Revenue Bond Revenue Account. All revenues shall be deposited in the National Guard Members' Revenue Bond Revenue Account. All moneys deposited in the National Guard Members' Revenue Bond Revenue Account shall be allocated and applied by the State Treasurer only as provided in the appropriate resolution of issuance of the department and separate and apart from all other moneys in the State Treasury. The moneys deposited in the National Guard Members' Revenue Bond Revenue Account shall be segregated and applied as provided in the resolution of issuance. The resolution of issuance may provide for the creation of any other funds or accounts which will be deemed necessary or desirable for the payment of or further security of revenue bonds. The resolution of issuance establishing such fund or accounts may provide for the manner and method of disbursement of such funds or accounts, the amounts to be deposited therewith and withdrawn therefrom, the application of any surplus moneys in any such funds or accounts to the purchase or redemption of revenue bonds and for the investment of moneys in such funds or accounts in particular bonds or obligations which are then made eligible for such investments by the terms of such resolution.

485.3. The revenues shall be pledged first to the payment of the principal of and interest on the revenue bonds and to all funds created for the further security of such revenue bonds, including reserve fund, sinking fund, and all other payments required to be made in connection with the revenue bonds.

485.4. The department shall at all times so long as any of the revenue bonds are outstanding establish, fix, and collect payments on all purchase contracts to produce an amount which, together with income derived from investments, will yield revenues which will, in the aggregate, be sufficient with respect to the then immediately ensuing fiscal year to pay and provide for all of the following:

(a) Interest to become due and payable in such fiscal year on all revenue bonds.

(b) The principal amount of all serial revenue bonds maturing by their terms during such fiscal year.

(c) The aggregate minimum sinking fund payments, if any, required to be made for such fiscal year on account of revenue bonds then outstanding.

(d) Such sums as may be required as reserve fund or funds payments due in such fiscal year.

(e) The estimated expenses of maintenance, operation and administration of the farm and home purchase division within the department as provided in the budget of the department for such fiscal year.

(f) Such additional aggregate sum as may be provided in any resolution of issuance, but not in excess of 1 ½ times the interest payments for such fiscal year on all the revenue bonds then outstanding, but not less than 10 percent of the sum represented by

the total of amounts designated by subdivisions (a), (b), and (c) of this section.

485.5. Subject to the provisions of Section 270.265, all such interest rates so fixed by the department shall be applicable uniformly to all purchase contracts.

485.6. All interest and other payments or charges of any kind or character due under any and all such contracts shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

485.7. All revenues to be received by the department from purchase contracts shall be directly, concurrently, and exclusively pledged to the payment of revenue bonds, and all such revenues shall remain so pledged until all of the revenue bonds are fully paid or sufficient funds have been accumulated and are legally available for the payment thereof.

485.8. The revenue bond principal and interest payments and any premium payable upon revenue bonds called for redemption, and all payments required for reserve funds, sinking funds and all other funds and accounts created as further security for the revenue bonds constitute a first, direct, and exclusive charge and lien on all revenues of the purchase contracts and the interest or other income derived therefrom. Such revenues, together with any interest or other income earned thereon, and such funds and the interest and income earned thereon, constitute a trust fund for the security and payment of the revenue bonds and shall not be used or pledged for any other purpose or transferred to any other fund as long as any such revenue bonds are outstanding and unpaid.

485.9. Whenever the National Guard Members' Finance Committee finds that the interest rate then fixed and charged by the department on the purchase contracts is not adequate to meet the covenants or requirements of any resolution of issuance, the National Guard Members' Finance Committee shall specify the amount of the increased rate of interest to be charged on all purchase contracts. The department shall increase the interest rate on all purchase contracts specified by the National Guard Members' Finance Committee. Such increased interest rate on all purchase contracts will take effect on the first day of the second calendar month next succeeding the date of such action and shall remain in effect until such time as the National Guard Members' Finance Committee consents to the reduction thereof. The National Guard Members' Finance Committee shall not consent to any reduction in the interest rate then fixed on all outstanding purchase contracts unless:

(a) The revenues in the preceding fiscal year produced by the interest rate then in effect are in excess of all requirements of all resolutions of issuance under which revenue bonds are then outstanding, and

(b) The interest rate so reduced will produce revenues for each subsequent fiscal year while any revenue bonds are outstanding in

the aggregate amount required by all resolutions of issuance under which such revenue bonds are outstanding.

486. The State Controller is hereby authorized to make all necessary orders to provide for the establishment of special funds or accounts authorized by any resolution of issuance and for the transfer of moneys from the National Guard Members' Revenue Bond Revenue Account into such funds or accounts. Such transfer shall be made by the State Treasurer without further action on the part of the department. Neither the department nor the State of California nor any officer thereof shall have or exercise any rights with respect to the moneys in any of such funds or accounts so established save only in trust for the direct benefit of the holders of revenue bonds.

486.1. Revenue bonds authorized under any resolution of issuance approved by the National Guard Members' Finance Committee shall be sold by the State Treasurer upon the request of the department at public or private sale and at such times and in such amounts as the department deems necessary to provide sufficient funds for the purposes for which the revenue bonds are then authorized, provided that the revenue bonds shall not be sold at less than their par value and accrued interest thereon to date of delivery. No revenue bonds authorized under any resolution of issuance may be sold at private sale unless such sale and the terms thereof have been approved in writing by the National Guard Members' Finance Committee. Successive issues of the revenue bonds within the limits of the authorization for the issuance of revenue bonds, in the event any such limitations are included in the proceedings for the issuance of such revenue bonds, shall be equally and regularly secured without preference, priority, or distinction as to security or otherwise by reason of time of issue, or sale, and all purchase contracts shall be deemed to constitute a pool for all bonds of any issue or series, except as revenue bonds of various series may differ with respect to dates, numbers, interest rates, maturity, redemption provisions, sinking fund provisions, or otherwise as expressly authorized in any resolution of issuance.

486.2. In the event the State Treasurer shall proceed with the sale of revenue bonds, all costs and expenses of publication of notice of sale shall be a charge against the department and shall be paid by the department. The department shall likewise pay the cost of printing, lithographing, or otherwise preparing the revenue bonds, the charges of any duly authorized agent of the State Treasurer appointed for the payment of principal and interest of the revenue bonds in any place other than the office of the State Treasurer, any expenses incurred in connection with delivery of the revenue bonds including the fees and expenses of municipal bond attorneys whose opinion on the validity of the revenue bonds is to be provided by the department without charge to the successful purchaser of the revenue bonds. The department is authorized to employ any nationally known municipal bond attorney or attorneys and the Attorney General for the purpose of rendering legal opinions as to

the validity of the revenue bonds to be furnished to the purchaser of the revenue bonds without cost. The department is also authorized to employ or appoint such independent financial consultants, attorneys, certified public accountants, public accountants, engineers, or other independent consultants whose services or opinions are necessary or advisable in connection with the issuance and sale of revenue bonds. Payment for such services shall be made from the proceeds of the sale of the revenue bonds or from any other funds available to the department on a warrant duly drawn by the State Controller for that purpose. Such expenses may also include the cost of delivering revenue bonds at any place other than the office of the State Treasurer, including transportation and insurance costs and the costs of using uniform identification numbers as specified by the Committee on Uniform Security Identification Procedure (CUSIP numbers) on the bonds including filing fees, printing, and related costs.

Article 5. Refunding Bonds

487. The department, subject to the approval of the National Guard Members' Finance Committee, may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any bonds issued under this chapter. All provisions of this chapter applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale, or exchange thereof. The department, with the approval of the National Guard Members' Finance Committee, may adopt a resolution or resolutions of issuance or supplemental resolutions authorizing the issuance of such refunding bonds and fixing the terms and conditions thereof.

487.1. Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all revenue bonds to be refunded thereby and in addition to the payment of all expenses incident to the calling, retiring, or paying of such outstanding revenue bonds and the issuance of such refunding bonds. Such expenses include any amount necessary to be made available for the payment of interest upon such refunding bonds from the date of sale thereof to the date of payment of the revenue bonds to be refunded, or to the date upon which the revenue bonds to be refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and the premium, if any, necessary to be paid in order to call or retire the outstanding revenue bonds and the interest accruing thereon to the date of the call or retirement.

487.2. Refunding revenue bonds shall not constitute a debt or obligation of the State of California but shall be revenue bonds of the department of the same character and payable from the same funds as other revenue bonds authorized pursuant to this chapter. Any and all reserve or other funds applicable to the payment of the revenue bonds to be refunded may, if so directed by the department, be

transferred to any reserve or other funds provided with respect to the refunding bonds. The pledge of revenues to be received from contracts entered into by the department with California National Guard members shall not be lessened, diminished, or affected in any way by the issuance of such refunding bonds.

487.3. The department may from time to time or at any time sell or exchange refunding bonds for the purpose of retiring, paying, or refunding either all or part of the outstanding revenue bonds, or of one or more series thereof, as it deems advisable. Such refunding bonds may be issued and delivered as outstanding revenue bonds to be refunded thereby mature or are about to mature or are subject to call or redemption, or if the retirement thereof has been assured by consent of the holders thereof. Refunding bonds may be delivered in whole or in part in exchange for outstanding revenue bonds with the consent of such holders.

Article 6. Bond Anticipation Notes

488. The department, subject to the approval of the National Guard Members' Finance Committee, may borrow money in anticipation of the sale of revenue bonds, and for that purpose may provide for the issuance and sale of negotiable bond anticipation notes. Except as otherwise provided in this article, such notes and the resolution providing for their issuance may contain any provision, condition, or limitation which a revenue bond or any resolution of issuance may contain.

488.1. The interest on bond anticipation notes shall be payable from the same funds from which the interest on revenue bonds is payable. The principal of such notes shall be payable from the proceeds of sale of revenue bonds, provided that the department shall not be precluded from paying such principal from any other moneys lawfully available therefor.

Article 7. Remedies of Revenue Bondholders

489. Any revenue bondholder may by mandamus or other appropriate proceedings compel the performance of any of the duties imposed upon any state official or employee or imposed upon the department or its officers, agents, or employees with respect to the collection of revenues from pledged contracts entered into by the department with veterans, and the investment and disbursement of the proceeds received from the sale of revenue bonds.

489.1. The department may, in any resolution of issuance, define the events of default, including among other things, default in the payment of the principal or interest upon or premium due upon any revenue bonds or default by the department in the observance of any of the convenants, agreements, or conditions on its part to be performed under the resolution of issuance, and may provide that

upon the happening of any such event of default the holders of not less than the majority in aggregate principal amount of the revenue bonds at the time outstanding will be entitled to declare the principal of all of the revenue bonds then outstanding and the interest accrued thereon to be immediately due and payable.

489.2. The department may provide in any resolution of issuance that, in the absence of the appointment of a trustee under Section 484.6, the State Treasurer shall constitute a trustee to represent the revenue bondholders in the exercise and prosecution on their behalf of such rights and remedies as may be available to such revenue bondholders under any resolution of issuance or under the law under this article and in such event the State Treasurer as such trustee shall take such action as may seem appropriate to protect the interests of the revenue bondholders.

489.3. Whenever the State Treasurer is acting as trustee by reason of any default, or for the protection of the interests of the revenue bondholders, the State Treasurer as such trustee shall take such action as the holders or registered owners of 25 percent in principal amount of all the revenue bonds then outstanding shall request in writing; provided, that the State Treasurer as such trustee may request reasonable security before taking any action so requested.

489.4. No remedy conferred upon or reserved to the holders of revenue bonds is intended to be exclusive of any other remedy or remedies now or hereafter provided by law and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this chapter or now or hereafter existing at law or in equity or by statute or otherwise.

489.5. While any of the revenue bonds remain outstanding the powers, duties, or existence of the department and of every other official or agency of the State of California shall not be diminished or impaired in any manner that will adversely affect the interests and rights of the holders of the revenue bonds.

Article 8. Miscellaneous

490. All revenue bonds and the income therefrom are at all times exempt from taxation in the State of California, except for transfer, inheritance, and gift taxes.

490.1. All revenue bonds shall be legal investments for all trust funds, for the funds of all insurance companies, banks (both commercial and savings), trust companies, state school funds, and any pension funds, public or private.

490.2. Any money or funds which may by law be invested in bonds of the State of California may be invested in revenue bonds authorized under Section 481.

490.3. Whenever any bonds of the State of California may by law be used as security for the performance of any act or the deposit of any public money, revenue bonds authorized under Section 481 may

be so used.

490.4. All revenue bonds, subject to the provisions for registration contained therein, are negotiable instruments.

490.5. The department may include in the proceedings authorizing the issuance of revenue bonds any provisions not inconsistent with this chapter which limit, restrict, or regulate the holding, deposit, investment, and application of money consisting of the proceeds from the sale of the revenue bonds or the revenues or other income received from the pledged contracts entered into by the department with California National Guard members, and such provisions shall constitute a contract with the holders of the revenue bonds and shall be binding upon the department and all other officers, officials, and agencies of the State of California and upon the state so long as any of the revenue bonds are outstanding.

490.6. The department may provide in the proceedings authorizing issuance of revenue bonds for the establishment of one or more reserve funds or accounts out of the proceeds of the sale of the revenue bonds or out of revenues or out of any moneys or securities available to the department under this chapter, and may provide for the use and application of any surplus moneys in any such reserve fund or account.

490.7. The National Guard Members' Finance Committee may authorize the sale by the State Treasurer of any of the revenue bonds authorized under this chapter to the United States of America or to any of its departments, agencies, or instrumentalities upon such terms and conditions as may be mutually agreed upon, and the department is specifically authorized to enter into any such agreements, terms, and conditions required by the United States of America or any of its departments, agencies, or instrumentalities as a condition to the purchase of such revenue bonds.

490.8. Warrants for the payments to be made on account of the revenue bonds either as to principal, interest, premium, or otherwise shall be duly drawn by the State Controller, upon the request of the State Treasurer, whenever the drawing of such warrants is required in order to make such payments.

490.9. Notwithstanding anything contained in this chapter, the proceeds received from the sale of revenue bonds and any revenues received by the department from pledged contracts entered into by the department may be used to defray any expenses incurred by the department or the State Treasurer in connection with, and incidental to, the issuance and sale of revenue bonds, including expenses for preparation, inspections and examinations, surveys, and reports which may be required by the purchasers of, and any legal opinions deemed necessary or advisable by the department in connection with the issuance of revenue bonds, except that the proceedings authorizing the issuance of such revenue bonds may contain appropriate provisions governing the use and application of the proceeds from the sale of the revenue bonds or other revenues received by the department for the purposes above specified.

491. If any article, section, subdivision, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity or enforceability of the remaining portions of the chapter. The Legislature hereby declares that it would have passed this chapter and each article, section, subdivision, sentence, clause, and phrase hereof irrespective of the fact that any one or more articles, sections, subdivisions, sentences, clauses, and phrases may be declared unconstitutional, invalid, or unenforceable.

491.1. All money in any of the funds or accounts created or authorized to be created in any resolution of issuance under the provisions of this chapter is hereby appropriated for expenditure in carrying out the purposes herein and therein provided.

491.2. For the purposes of meeting the necessary expenses of initial organization and operation until such date as the department derives revenues or proceeds from bonds or notes as provided under this chapter, the department may, with the approval of the Department of Finance, borrow money as needed from the General Fund in the State Treasury. Such borrowed moneys shall be repaid with interest from the first proceeds from the sale of bonds or notes as provided under this chapter.

CHAPTER 1275

An act to repeal Section 987.64 of the Military and Veterans Code, relating to loans.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 987.64 of the Military and Veterans Code is repealed.

CHAPTER 1276

An act to amend Section 205.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of two or more limbs, or is totally disabled. The exemption shall be fifteen thousand dollars ($15,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977. The exemption shall be fifteen thousand dollars ($15,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the

principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be fifteen thousand dollars ($15,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she

was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be fifteen thousand dollars ($15,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means

having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.2. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of two or more limbs, or is totally disabled. The exemption shall be sixty thousand dollars ($60,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for

the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans

qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 1.3. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of such a veteran whose household income as defined in Section 20585 does not exceed the amounts specified in Section 20504.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both

the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

SEC. 2. The Controller shall report to the Legislature on the amount of the claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act. Such report shall be made on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

SEC. 3. It is the intent of the Legislature that if this bill and Assembly Bill No. 2871 or Senate Bill No. 1656, or both, are chaptered and amend Section 205.5 of the Revenue and Taxation Code, and this

bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 2871 are both chaptered and amend Section 205.5 of the Revenue and Taxation Code, but Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2871, the amendments proposed by both bills shall be given effect and incorporated in Section 205.5 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 2871 is chaptered before this bill and both bills amend Section 205.5, and Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2 and 1.3 of this act shall not become operative.

(b) If this bill and Senate Bill No. 1656 are both chaptered and become effective January 1, 1979, both bills amend Section 619 of the Revenue and Taxation Code, but Assembly Bill No. 2871 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1656, that Section 619 of the Revenue and Taxation Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656, Section 619 of the Revenue and Taxation Code as amended by Section 1 of this act, be further amended in the form set forth in Section 1.2 of this act to incorporate the changes in Section 619 proposed by Senate Bill No. 1656. Therefore, Section 1.2 of this act shall become operative only if this bill and Senate Bill No. 1656 are both chaptered and become effective January 1, 1979, both bills amend Section 619, this bill is chaptered after Senate Bill No. 1656, and Assembly Bill No. 2871 is not chaptered or as chaptered does not amend that section, in which case Sections 1.1 and 1.3 shall not become operative, and Section 1.2 of this act shall become operative on the operative date of Senate Bill No. 1656.

(c) If this bill and Assembly Bill No. 2871 and Senate Bill No. 1656 are all chaptered and become effective January 1, 1979, all three bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2871 and Senate Bill No. 1656, that Section 619 of the Revenue and Taxation Code, as amended by Section 1.1 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656, Section 619 of the Revenue and Taxation Code as amended by Section 1.1 of this act be further amended in the form set forth in Section 1.3 of this act to incorporate the changes in Section 619 proposed by Assembly Bill No. 2871 and Senate Bill No. 1656. Therefore, Section 1.3 of this act shall become operative only if this bill and Assembly Bill No. 2871 and Senate Bill No. 1656 are all chaptered and become effective January 1, 1979, all three bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2871 and Senate Bill No. 1656, in which case Sections 1 and 1.2 shall not become operative, and Section

1.3 of this act shall become operative on the operative date of Senate Bill No. 1656.

CHAPTER 1277

An act to add and repeal Section 1012.5 to the Military and Veterans Code, relating to veterans.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 1012.5. is added to the Military and Veterans Code, to read:

1012.5. Notwithstanding any other provisions of law, the dollar amount of any fee or charge paid by any member of the home, as of July 1, 1978, for the privilege of residing therein, or to defray, in whole or in part, the cost of lodging and care provided by the home, shall not be increased.

This section shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2. The Joint Legislative Budget Committee shall conduct a study of the equity of the home's fee schedule as adopted April 1, 1978. The study shall include, but not be limited to, recommendations based on a review of similar federal and state programs as to the amount of state funding which should be appropriated to the home. The final report shall be submitted to the Legislature no later than July 1, 1979.

CHAPTER 1278

An act to amend Section 2145.5 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 2145.5 of the Business and Professions Code is amended to read:

2145.5. (a) When clearly outstanding physicians who are leaders in important fields in medicine and surgery and who are graduates of medical schools other than those of the United States are greatly needed to fill important full-time academic positions in approved

California medical schools for the teaching of medical students who are candidates for the degree "doctor of medicine," and if such physician has been offered by the dean of the medical school a full-time academic appointment, the Board of Medical Quality Assurance may review the credentials of such physician and may decide whether to require such physician to pass an oral or a written examination, and may grant a certificate of registration to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of his duties as approved by the Division of Licensing in connection with the academic position in the medical school. Such certificate of registration shall be valid for a period of not more than five years and shall be renewable at the discretion of the board and during which period he shall not otherwise hold himself out as a physician and surgeon in this state.

(b) A physician who receives and has held a valid certificate of registration under subdivision (a) for at least two years and who desires an unlimited physician's and surgeon's certificate in this state may, upon application to, and if approved by, the Board of Medical Quality Assurance, be granted an unlimited physician's and surgeon's certificate. An applicant for such unlimited certificate shall take and pass an oral and clinical examination. Notwithstanding any other provision of law, the board shall accept time spent in an appointment pursuant to subdivision (a) as qualifying time to meet the requirements of full licensure.

CHAPTER 1279

An act to add Section 5305 to, to add Article 4 (commencing with Section 3790) to Chapter 2 of Division 5 of, to add Article 5 (commencing with Section 5020) to Chapter 3 of Division 5 of, and to add Article 3 (commencing with Section 5210) to Chapter 4 of Division 5 of, the Elections Code, relating to elections.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Article 4 (commencing with Section 3790) is added to Chapter 2 of Division 5 of the Elections Code, to read:

Article 4. Mailings

3790. Whenever the clerk is required to mail official matter, as provided in Sections 3713, 3714, 3783, and 3787, only one copy of each such official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

The provisions of this section shall only apply if the board of supervisors adopts the provisions of this section.

SEC. 2. Article 5 (commencing with Section 5020) is added to Chapter 3 of Division 5 of the Elections Code, to read:

Article 5. Mailings

5020. Whenever the clerk is required to mail official matter, as provided in Sections 4015, 4015.5, 4018, 5011, 5012, 5013, and 5014.5, only one copy of each such official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

The provisions of this section shall only apply if the legislative body of the city adopts the provisions of this section and the election official conducting the election approves of the procedure.

SEC. 3. Article 3 (commencing with Section 5210) is added to Chapter 4 of Division 5 of the Elections Code, to read:

Article 3. Mailings

5210. Whenever the clerk is required to mail official matter, as provided in Sections 5156, 5157, and 5157.5, only one copy of each such official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

The provisions of this section shall only apply if the legislative body of the district adopts the provisions of this section and the election official conducting the election approves of the procedure.

SEC. 4. Section 5305 is added to the Elections Code, to read:

5305. Whenever the clerk is required to mail a statement, as provided in Section 5301, only one copy of such statement shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

The provisions of this section shall only apply if the legislative body adopts the provisions of this section and the election official conducting the election approves of the procedure.

CHAPTER 1280

An act to amend Sections 33751.5, 33753, 34312, 34315, and 37922 of the Health and Safety Code, relating to housing.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 33751.5 of the Health and Safety Code is amended to read:

33751.5. The Legislature further finds and declares that the construction and rehabilitation of residences for occupancy by persons of low income, as defined in Section 50093, is properly included within redevelopment plans whether or not such construction or rehabilitation is to occur within a redevelopment area, since redevelopment agencies have specific obligations for development of housing whether or not such development is feasible within specific redevelopment project areas.

SEC. 2. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Insured loan" means a construction loan or a mortgage loan insured or guaranteed, in whole or in part, by any instrumentality of the United States or the State of California, or by any person licensed to insure mortgages in this state.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state or any of its political subdivisions or employee of any redevelopment agency shall be eligible to be a participating party under the provisions of this chapter.

(e) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(f) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(g) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section. "substandard residence" has the same meaning as the term "substandard building," as defined in subdivision (f) of Section 17920.

(h) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan.

(i) "Residence" means real property improved with a residential structure, and within a redevelopment project area also includes real property improved with a commercial structure, or a mixed residential and commercial structure which the redevelopment agency determines to be an integral part of a residential neighborhood. "Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(j) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 3. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may:

(a) Prepare, carry out, acquire, lease, and operate housing projects for persons of low income as authorized by this chapter and housing developments for persons and families of low and moderate income as authorized by Part 3 (commencing with Section 50900) of Division 31.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation of residential structures for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the

limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(e) Provide counseling, referral, and advisory services to persons of low income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

SEC. 4. Section 34315 of the Health and Safety Code is amended to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accomodations, lands, buildings, structures, or facilities embraced in any housing project and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(g) Lend upon the security of a mortgage or deed of trust in connection with the sale of real property to persons of low income or the implementation of government housing and rehabilitation financing programs for persons of low income, and for other persons when acting pursuant to authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 41300) or Part 5 (commencing with Section 42000) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 41057.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages or deeds of trust on any property included in any of its housing projects or secured by mortgages or deeds of trust pursuant to Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31.

SEC. 5. Section 37922 of the Health and Safety Code is amended to read:

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential

rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

(1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area that the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) apply to.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

(1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding either 98 or 100 percent of the estimated after-rehabilitation value or of its total development cost, according to the standards for nonprofit housing sponsors set forth in Section 50958, if the dwelling units within the residence rehabilitated with financing under this part are committed for the period during which the loan is outstanding for occupancy by

persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(3) The maximum amount loaned for rehabilitation, exclusive of refinancing, for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be thirty-five thousand dollars ($35,000).

(4) No more than 20 percent of any loan for residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Loans shall not be made for the purpose of refinancing the outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

CHAPTER 1281

An act to amend Section 619 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 619 of the Revenue and Taxation Code is amended to read:

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1608 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the assessment ratio for the county as provided in Section 401 and the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

SEC. 2. Section 619 of the Revenue and Taxation Code is amended to read:

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include

the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1656 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1656, that Section 619 of the Revenue and Taxation Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656 Section 619 of the Revenue and Taxation Code, as amended by Section 1 of this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 619 proposed by Senate Bill No. 1656. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 1656 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 619, and this bill is chaptered after Senate Bill No. 1656, in which case Section 1 of this act shall become operative on the operative date of Senate Bill No. 1656.

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

In order to provide for the efficient and orderly administration and preparation of the property tax roll for the 1978–79 fiscal year and thereafter by eliminating the requirement of a costly, and yearly, mailing of notice to property owners of an annual 2 percent increase in the valuation of their taxable property for tax limitation purposes, this act must go into effect immediately.

CHAPTER 1282

An act to add Section 40902 to the Vehicle Code, relating to violations.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 40902 is added to the Vehicle Code, to read:

40902. (a) The court, pursuant to this section, may, by rule, provide that the defendant may elect to have a trial by written declaration upon any alleged infraction involving a violation of this code or any local ordinance adopted pursuant to this code.

(b) Notwithstanding the provisions of Division 10 (commencing with Section 1200) of the Evidence Code, the rules governing such trials may provide for testimony and other relevant evidence to be introduced in the form of a notice to appear issued pursuant to Section 40500, a notice of parking violation issued pursuant to Section 41103, a business record or receipt, a sworn declaration of the arresting officer, or a written statement or letter signed by the defendant.

(c) If the defendant is dissatisfied with a decision of the court in a proceeding pursuant to this section, such party shall be granted a trial de novo.

CHAPTER 1283

An act to add Section 82548 to, the Education Code, relating to use of community college property.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 82548 is added to the Education Code, to read:

82548. The governing board of any community college district may require any person, group, or organization granted the use of community college property pursuant to this article for the purposes of athletic activities to obtain a certificate of insurance from a liability insurance carrier and to submit such certificate to the district for approval prior to using any district property. The certificate shall evidence a minimum coverage of three hundred thousand dollars ($300,000) for any liability for injury or damage to property which may arise out of such use of community college property. The

governing board of any community college may require more than such minimum coverage.

CHAPTER 1284

An act to amend Sections 11409 and 13300 of, to amend and repeal Section 12016 of, to add Sections 11409.1 and 12412.1 to, to add Article 3 (commencing with Section 13335) to Chapter 3 of Part 3 of Divison 3 of Title 2 of, and to add Article 1.5 (commencing with Section 16360) to Chapter 2 of Part 2 of Division 4 of Title 2 of, the Government Code, relating to state fiscal affairs, and making an appropriation therefor.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to provide for accurate budgeting and accounting for all funds whether they be derived from state or other sources. It is further the intent of the Legislature that fiscal information developed within state government be provided to both the legislative and executive branches in usable form in order to enhance fiscal decisionmaking in the establishment of budgets for all state activities. The Legislature declares that the implementation of this act is necessary to form the basis for fiscal accountability for all funds used by the state. The Legislature further declares that this act is necessary to establish expenditure priorities within state government in such a way as to give the State of California a budget which reflects the total resources of the state, serves the needs of the people of the state and, at the same time, provides such services in the most efficient and effective manner without waste and duplication.

SEC. 2. Section 11409 of the Government Code is amended to read:

11409. The department shall:

(a) Provide for the continuing compilation and publication, with periodic supplements, of notices of proposed action pursuant to Section 11423, and all regulations required to be filed with the Secretary of State, or of appropriate references to any regulations the printing of which the department finds to be impractical, such as detailed schedules or forms otherwise available to the public, or which are of limited or particular application.

The publication of compiled regulations shall be known as the "California Administrative Code," and the periodic supplements thereto, including notices of proposed action, shall be known as the "California Administrative Register."

(b) Prescribe regulations for carrying out the provisions of

Articles 2 and 3 of this chapter. Among other things the regulations shall provide for the manner and form in which regulations, notice of the repeal of regulations and compilations shall be prepared, printed, and indexed, to the end that all regulations and compilations shall be prepared and published in a uniform manner and at the earliest practicable date and that each regulation published shall be accompanied by a reference to the statutory authority pursuant to which it was enacted.

SEC. 3. Section 11409.1 is added to the Government Code, to read:

11409.1. The Office of Administrative Hearings, in cooperation with the Legislative Counsel, shall codify all regulations required to be filed with the Secretary of State. The Office of Administrative Hearings shall codify the regulations in a manner which allows simple cross-referencing of regulations to codes and statutes so that ultimately, Legislative Counsel may begin checking regulations against the codes or statutes.

SEC. 4. Section 12016 of the Government Code is amended to read:

12016. (a) The budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature shall be submitted within the first 10 days thereof and shall contain a complete plan and itemized statement of all proposed expenditures of the state provided by existing law or recommended by him, and all of its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the ensuing fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the last completed fiscal year and the actual revenues and expenditures for the existing fiscal year.

(b) The Governor, or the Department of Finance acting on his behalf, shall make appropriate changes in his budget request to reflect any modification in the organization or functions of state government proposed under Article 7.5 (commencing with Section 12080) of Chapter 1 of this part prior to the passage of such budget.

(c) The provisions of this section shall apply to the budgets for all the following departments and agencies only with respect to the budgets of such departments and agencies for the 1979–80, 1980–81, and 1981–82 fiscal years:

(1) Employment Development Department.
(2) Department of Education.
(3) California State University and Colleges.
(4) Department of Water Resources.
(5) Department of Transportation.
(6) State Department of Health Services.
(7) State Department of Social Services.
(8) Department of Motor Vehicles.

(d) The provisions of this section shall apply to the budgets of all other state entities only with respect to the budgets of such entities

for the 1979–80, 1980–81, 1981–82, and 1982–83 fiscal years.

This section shall remain in effect only until June 30, 1983, and as of that date is repealed, unless a later enacted statute which is chaptered before June 30, 1983, deletes or extends such date.

SEC. 5. Section 12412.1 is added to the Government Code, to read:

12412.1. The Controller shall:

(a) Account for expenditures by program schedules as utilized in the Budget Bill.

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

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

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

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

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

This section shall apply to all departments and agencies specified in subdivision (c) of Section 12016 commencing with the 1982–83 fiscal year and to all other state entities commencing with the 1983–84 fiscal year.

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

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

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

(c) This system shall include a program cost accounting system

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

The amendments made to subdivisions (b) and (c) of this section during the 1977–78 Regular Session of the Legislature shall apply to the departments and agencies specified in subdivision (c) of Section 12016 commencing with the 1982–83 fiscal year and to all other state entities commencing with the 1983–84 fiscal year. The department shall adopt guidelines and instructions to implement the application of this section to the departments and agencies specified in subdivision (c) of Section 12016 by June 30, 1981, and to all other state entities by June 30, 1982.

SEC. 7. Article 3 (commencing with Section 13335) is added to Chapter 3 of Part 3 of Division 3 of the Government Code, to read:

Article 3. Revised Budgeting and Accounting System for Fiscal Affairs of State Government

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

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

(b) Divide programs into a consistent level of detail; and

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

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

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

The department shall develop departmental performance or workload measures for each state agency.

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

(b) The Governor, or the Department of Finance acting on his behalf, shall make appropriate changes in his budget request to reflect any modification in the organization or functions of state government proposed under Article 7.5 (commencing with Section 12080) of Chapter 1 of this part prior to the passage of such budget.

(c) The Governor's Budget shall be prepared as a program budget in accordance with guidelines and instructions adopted by the Department of Finance pursuant to Sections 13335 and 13336.

(d) In order to provide meaningful comparisons, the Governor's Budget shall be prepared in such a manner that the elements and components of each program shall be set forth in the same manner each year.

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

(f) The Governor's Budget shall also include a coding structure which indicates the types of activities being performed by each state entity so that similar or identical activities being performed by different entities may be identified and compared.

(g) The Governor, or the Department of Finance on his behalf, shall also prepare a supplemental report after July 1, but before August 1, of each year which indicates, for that fiscal year, a monthly encumbrance, obligation, and expenditure plan for each state entity by program or element. For the purposes of this act, an obligation exists when goods or services have been delivered and the state is required to pay for such goods or services and an encumbrance exists when a commitment has been made to expend funds. For purposes of accounting for funds under this act, all funds appropriated shall be identified as either expended, obligated, encumbered or unencumbered, as further defined by the California Fiscal Advisory Board, and the total of these shall equal the total appropriation.

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

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

behalf, shall, at the same time the Governor's Budget is submitted to the Legislature, submit to the Legislature copies of the material for the purposes of subdivision (j).

(j) The Department of Finance shall develop a fiscal information system which will provide timely and uniform fiscal data needed to formulate and monitor the budget, including, but not limited to, online inquiry capacity and the ability to simulate budget expenditures and forecast revenues. This system shall include, among other things, an accounting for expenditures by line item, program, governmental unit and fund source. This system shall also include a coding structure which indicates the types of activities being performed by each state entity so that similar or identical activities being performed by the same or different entities may be identified and compared. This system and the data shall be available to both the legislative and executive branches. The system may contain separate programs accessible by only one branch, designed to provide for distinct application of the data, but the basic system data shall be available on an equal basis to both the legislative and executive branches.

(k) The provisions of this section shall apply to the budgets for all departments and agencies specified in subdivision (c) of Section 12016 commencing with the 1982–83 fiscal year and to each fiscal year thereafter. The provisions of this section shall apply to the budgets of all other state entities commencing with the 1983–84 fiscal year and to each fiscal year thereafter.

13338. (a) The Budget Bill shall be prepared in such a manner that it reflects, and follows as closely as possible, the Governor's Budget including programs and elements itemized therein.

(b) The Budget Bill shall also utilize a coding scheme compatible with the Governor's Budget and with the records of the State Controller. The provisions of this subdivision shall apply commencing with the 1982–83 fiscal year, and to each fiscal year thereafter.

(c) The Budget Bill shall provide for the appropriation of federal funds received by the state and deposited in the State Treasury. The provisions of this subdivision shall apply commencing with the 1981–82 fiscal year, and to each fiscal year thereafter.

(d) The provisions of subdivisions (a) and (b) shall apply to the budgets for all departments and agencies specified in subdivision (c) of Section 12016 commencing with the 1982–83 fiscal year and to each fiscal year thereafter. The provisions of this section shall apply to the budgets of all other state entities commencing with the 1983–84 fiscal year and to each fiscal year thereafter.

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

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

(2) Chairman of the Joint Legislative Budget Committee.

(3) Chairman of the Joint Legislative Audit Committee.

(4) State Treasurer.
(5) State Controller.
(6) Director of Finance, who shall serve as chairman of the board.

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

In addition thereto, the advisory board shall review the budgeting and accounting process for the purpose of improving the preparation, legislative review and execution of the budget considering, but not limited to, such subjects as the budget cycle, adequate time for legislative review, increased public participation, and the basis of accounting revenues, expenditures, obligations, and encumbrances. The advisory board shall make a preliminary report of its recommendations by March 1, 1981, and a final report by January 1, 1983.

This section shall remain in effect only until June 30, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1984, deletes or extends such date.

13340. On and after July 1, 1983, no moneys in any fund which, by any statute other than a Budget Act, is continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance. The department, not later than January 1, 1982, shall submit a report to the Legislature containing a recommendation as to which of such funds, if any, should continue to be continuously appropriated.

13341. It is the intent of the Legislature that the existing budgeting, accounting, and reporting systems of the University of California shall not be substantially modified to comply with the requirements of this article.

13342. Nothing in this article shall be construed to prohibit implementation of any provision of this article prior to a specified date.

SEC. 8. Article 1.5 (commencing with Section 16360) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 1.5. Federal Trust Fund

16360. The Federal Trust Fund is hereby created in the State Treasury. It consists of money which is paid into it in trust pursuant to law. Notwithstanding any other provisions of law, all money received by the state from the United States, the expenditure of which is administered through or under the direction of any state agency, shall, under such conditions as the Director of Finance may prescribe and on order of the State Controller, be deposited in the Federal Trust Fund.

16361. All money in the Federal Trust Fund is hereby appropriated, without regard to fiscal year, for expenditure for the purposes for which the money deposited therein is made available by the United States for expenditure by the state.

16362. Whenever any law provides for the payment and deposit of specific money received by the state from the United States into a specific State Treasury fund, the money shall first be credited to the Federal Trust Fund and then be transferred to or disbursed to the specific State Treasury fund for fulfilling the purposes for which the money was collected or received.

16363. Whenever any agency receives money from the United States for expenditure by the state and no specific State Treasury fund has been created to which this money is to be credited, the money shall be credited to the Federal Trust Fund and shall be held subject to the right of the state agency to recover it, on claims properly presented, for fulfilling the purposes for which the money was collected or received.

16364. The State Controller and all state agencies receiving money from the United States shall keep an accurate account of all money deposited in, transferred to or from, or disbursed from, the Federal Trust Fund.

16365. The Director of Finance and the State Controller may approve any general plan whereby:

(a) Any expenditures which are a proper charge against the money made available by the United States and deposited in the Federal Trust Fund may be paid, in the first instance, from the General Fund or any other fund in the State Treasury, expenditures from which are administered through or under the direction of the state agency receiving the money from the United States and,

(b) The General Fund or any other fund in the State Treasury shall be reimbursed for expenditures made therefrom that are a proper charge against the Federal Trust Fund.

Such a general plan may provide for advance transfers from the Federal Trust Fund to the General Fund or any other fund in the State Treasury, based on estimates of such expenditures that will be subject to reimbursement from the Federal Trust Fund pursuant to such plan, and may provide for reimbursements to the Federal Trust Fund.

Requests for reimbursement or transfer pursuant to such a plan shall be furnished to the State Controller in writing by the state agency administering the expenditures accompanied by such financial statements as the plan may provide. Upon order of the State Controller, the required amount shall be transferred in accordance therewith.

This section shall become operative July 1, 1979.

CHAPTER 1285

An act to add Section 10153.1 to the Business and Professions Code, relating to real estate licensees.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 10153.1 is added to the Business and Professions Code, to read:

10153.1. It is unlawful for any person with respect to any examination under this part to practice any deception or fraud with regard to his or her identity in connection with any examination, application, or request to be examined.

Any person who willfully violates or knowingly participates in the violation of this section is guilty of a misdemeanor.

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

CHAPTER 1286

An act to amend Sections 17299 and 24436.5 of the Revenue and Taxation Code, and to amend Section 5 of Chapter 238 of the Statutes of 1974, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 17299 of the Revenue and Taxation Code is amended to read:

17299. (a) Notwithstanding any other provisions in this part to the contrary, in the case of a taxpayer who derives rental income from substandard housing located in this state, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year with respect to such substandard housing, except as provided in subdivision (c).

(b) Substandard housing means housing which (1) has been determined by a state or local government regulatory agency to

violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at his last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of such noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) a general description of the tax consequences of such filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify the Franchise Tax Board of such noncompliance. No deduction shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood or other natural disaster except where such condition remains for more than three years after the disaster,

(2) The owner of the rental housing has secured financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard, and has commenced repairs or other work necessary to bring such housing into compliance or

(3) The owner of rental housing which is not within the meaning of housing accommodation as defined by subdivision (d) of Section 35805 of the Health and Safety Code has attempted to:

(A) Secure financing to bring such housing into compliance with

those laws or codes which have been violated, causing such housing to be classified as substandard; and

(B) Such financing is denied solely because such housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) The provisions of this section do not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless such violations cause substantial danger to the occupants of such property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in such property, immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1st of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (a);

(2) The number of violations complied with within the period prescribed in subdivision (a);

(3) The number of notices of noncompliance issued pursuant to subdivision (c);

(4) The number of appeals from those notices pursuant to subdivision (c);

(5) The number of successful appeals by owners;

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c);

(7) The number of cases in which a notice of noncompliance was not sent pursuant to the provision of subdivision (d);

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of such extensions;

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where such notice is actually sent to the Franchise Tax Board;

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board; and

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 2. Section 24436.5 of the Revenue and Taxation Code is amended to read:

24436.5. (a) In the case of a taxpayer who derives rental income from substandard housing located in this state, no deductions for interest, depreciation, taxes, or amortization under Section 24343, 24344, 24345, 24349, or 24354.2 shall be allowed which relate to such substandard housing.

(b) Substandard housing means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been repaired or brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is longest; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the government regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at his last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of such noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) a general description of the tax consequences of such filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify the Franchise Tax Board of such noncompliance. No deduction shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire income year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood or other natural disaster except where such condition remains for more than three years after the disaster,

(2) The owner of the rental housing has secured financing to bring such housing into compliance with those laws or codes which

have been violated, causing such housing to be classified as substandard, and has commenced repairs or other work necessary to bring such housing into compliance, or

(3) The owner of rental housing which is not within the meaning of housing accommodation, as defined in subdivision (d) of Section 35805 of the Health and Safety Code, has attempted to:

(A) Secure financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard; and

(B) Such financing is denied solely because such housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) The provisions of this section do not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless such violations cause substantial danger to the occupants of such property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in such property, immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1st of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (a);

(2) The number of violations complied with within the period prescribed in subdivision (a);

(3) The number of notices of noncompliance issued pursuant to subdivision (c);

(4) The number of appeals from those notices pursuant to subdivision (c);

(5) The number of successful appeals by owners;

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c);

(7) The number of cases in which a notice of noncompliance was not sent pursuant to the provisions of subdivision (d);

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of such extensions;

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where such notice is actually sent to the Franchise Tax Board;

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax

Board; and

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 3. On July 1, 1979, and on July 1 of each year thereafter, the Controller shall transfer from the General Fund to the Local Agency Code Enforcement and Rehabilitation Fund, which is hereby created, an amount equal to the net amount collected during the preceding fiscal year due to the application of Sections 17299 and 24436.5 of the Revenue and Taxation Code as estimated by the Department of Finance and appropriated annually from the General Fund for purposes specified in this section. On October 1 of 1979, and each October 1 of each year thereafter, the Controller shall distribute the amounts in the fund, which is hereby continuously appropriated for such purpose, to each city, county, and city and county in proportion to the amounts in the fund having a source from each such entity, as estimated by the Department of Finance. Each entity receiving amounts pursuant to this section shall utilize such amounts for any or all the following purposes:

(a) To defray costs incurred in the enforcement of local housing code provisions;

(b) To fund housing rehabilitation programs for persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code;

(c) To prevent or minimize displacement of tenants and homeowners as a result of local code enforcement activities.

SEC. 4. On or before July 1, 1980, and on or before July 1 of each even-numbered calendar year thereafter, the Legislative Analyst shall prepare, and provide to the Legislature, a written report on the effect of the application of Sections 17299 and 24436.5 of the Revenue and Taxation Code, together with comments and recommendations.

SEC. 5. Section 5 of Chapter 238 of the Statutes of 1974 is amended to read:

Sec. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 1 of this act shall apply to taxable years beginning on or after January 1, 1975, and Section 2 of this act shall apply to income years which begin on or after January 1, 1975.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there by an appropriation made by this act because self-financing authority is provided in this act to cover such costs.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1287

An act to amend Sections 52, 70, 71, 304.5, 706, 706.2, 1009, 1642.3, 1642.9, 6432, 6491, 6494, 6551, 6552, 6614.1, 8660.1, 8661, 8667, 9160.5, 9169, 9611, 22052, 22602, 22832, 22836, 22930.5, 23510.5, 25500, 27003, and 27211 of, to add Section 1508.5 to, to repeal Sections 1642.6 and 22031 of, and to amend and renumber the heading of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of, the Elections Code, to amend Sections 12581, 12583, and 25041 of, and to repeal Section 34051 of, the Government Code, and to add and repeal Section 30777 of the Water Code, relating to elections.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 52 of the Elections Code is amended to read:

52. No person shall be considered a legally qualified candidate for any office or party nomination for a partisan office under the laws of this state unless that person has filed a declaration of candidacy with the proper official for the particular election or primary, or is entitled to have his or her name placed on a general election ballot by reason of having been nominated at a primary election or having been selected to fill a vacancy on the general election ballot as provided in Section 6655 of this code.

This section shall not be construed to prevent a voter from writing in the name of any person for an office at a primary or general election.

It is the intent of the legislature, in enacting this section, to enable the Federal Communications Commission to determine who is a "legally qualfied candidate" in this state for the purposes of administering the provisions of Section 315 of the Communications Act of 1934.

SEC. 2. Section 70 of the Elections Code is amended to read:

70. Notwithstanding any provision of law to the contrary, there shall be set forth in full in nomination documents required for any primary or final election the oath or affirmation set forth in Section 3 of Article XX of the Constitution and, such requirements shall satisfy the provisions of Section 3 of Article XX of the Constitution with respect to any office or public trust.

SEC. 3. Section 71 of the Elections Code is amended to read:

71. All nomination documents filed in accordance with this code shall be held by the officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term. They may thereafter be destroyed unless they have been introduced in evidence in some action or proceeding then pending.

SEC. 3.8. Section 304.5 of the Elections Code, as proposed to be

added by Assembly Bill No. 2219, is amended to read:

304.5. Upon written request to the jury commissioner, the county clerk may obtain from him the list of persons for the county who have been licensed or issued an identification card by the Department of Motor Vehicles. The list may be used by the county clerk in accordance with the provisions of Section 304 exclusively for purposes of identifying and registering to vote qualified electors who are not registered to vote. If the jury commissioner has not obtained the list from the Department of Motor Vehicles, the county clerk may obtain it directly from the department.

SEC. 4. Section 706 of the Elections Code is amended to read:

706. Within 60 days following the day of the direct primary and following the day of the statewide general election, the clerk shall cancel the affidavits of registration for each voter who failed to vote at the previous direct primary or previous statewide general election, whichever is later, and for whom he receives an address correction requested or any other postal notice which indicates that the voter is not known at the address shown on his affidavit of registration or has moved and left no forwarding address.

SEC. 5. Section 706.2 of the Elections Code is amended to read:

706.2. Any computer tapes of registered voters and any copies of the index to the precinct register which are required to be prepared more than 60 days following the day of the direct primary and following the day of the statewide general election shall reflect the cancellation of voters and address corrections resulting from the application of Section 706.

SEC. 6. Section 1009 of the Elections Code is amended to read:

1009. The identification envelope shall contain the following:

(a) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he is voting.

(b) The signature of the voter.

(c) The residence address of the voter as shown on the affidavit of registration.

(d) The date of signing.

(e) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(f) A warning plainly stamped or printed on it that voting twice constitutes a crime.

SEC. 7. Section 1508.5 is added to the Elections Code, to read:

1508.5. At any election to fill a vacancy in the office of State Senator, Member of the Assembly, or Representative in Congress, there shall not be more than three precincts consolidated and they shall be formed to contain not more than 600 voters.

SEC. 8. Section 1642.3 of the Elections Code is amended to read:

1642.3. By the time of the publication of the list of the names of the precinct board members appointed, the county clerk shall mail or deliver to the county central committee of each qualified political party a copy of the list, and he may notify the same committee of any substitute appointments that are made until the time the notice of

final order is sent to the precinct inspector.

SEC. 9. Section 1642.6 of the Elections Code is repealed.

SEC. 10. Section 1642.9 of the Elections Code is amended to read:

1642.9. In each county where the county clerk determines that the public interest, convenience, and necessity require the local publication of the list of the names of precinct board members appointed and polling places designated for each election precinct in order to afford adequate notice of this subject to the electorate, publication of this list shall be made as provided in this section and Section 1643.

After such determination, the county clerk shall divide and distribute the list of precinct board members and polling places and cause the same to be published in newpapers of general circulation published in different places in the county as hereinafter provided, the publication to be at least one week before the day of election.

Divisions of the list of names of the precinct board members and polling places may be published in that daily newspaper of general circulation published or circulated in one or more cities in the county, with the exception of the county seat, which it is determined will give to the electorate in each city adequate notice of the election. If there is no daily newspaper, publication may be made in a semiweekly newspaper, a triweekly newspaper, or a weekly newspaper of general circulation which it is determined will give the electorate in the city adequate notice of the election.

The list of names of the precinct board members appointed and polling places designated for various portions of the unincorporated area of the county and of the county seat may be published in those daily, semiweekly, triweekly, or weekly newspapers of general circulation published or circulated within the various portions of the unincorporated area and the county seat, deemed by the county clerk to be those newspapers which will give adequate notice of the election to the voters of the respective portions of the unincorporated area and the county seat.

SEC. 11. Section 6432 of the Elections Code is amended to read:

6432. Not less than 123 days before a primary election, the Secretary of State shall, with the advice and consent of the Attorney General, determine which parties are disqualified to participate in any primary election under Section 6431. If it is proposed to disqualify a party which was qualified to participate in the next preceding direct primary, notice of intention to disqualify shall be served by registered mail on the chairman of the state central committee of the party, as shown by the records of the Secretary of State. In any event, notice of intention to disqualify shall be given in each county of the state by publication pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation printed and published in any county, publication shall be made in a newspaper of general circulation printed and published in an adjoining county.

If the party desires a hearing on the notice of intention to

disqualify, it shall, within 10 days after service by mail or within 10 days after the last date upon which the notice was published in any county, whichever is later, file an affidavit in the Supreme Court under Section 10015 setting forth facts showing that the political party is not disqualified to participate in any primary election under Section 6431. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. Before the affidavit is filed, a copy shall be personally served on the Secretary of State. When filed, the matter shall be set for return in not more than 10 days and shall have priority over any other pending cases.

In connection with proceedings in the Supreme Court under this section, the Legislature hereby declares its intent to create a speedy and expeditious method for judicial determination of the vital questions involved, and urges the Supreme Court to accept jurisdiction in any such proceeding. The Legislature further urges that the court instruct any referee before whom the taking of evidence is ordered to report back to the court in sufficient time so that the court's final order may be made effective on or before the 80th day before the primary election.

SEC. 12. Section 6491 of the Elections Code is amended to read:

6491. The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a _____ Party candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 19__, and declare the following to be true:

My name is _____ .

I want my name and occupational designation to appear on the ballot as follows _____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and/or constitutional qualifications for this office (including but not limited to citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California }
County of _____ } ss.

Subscribed and sworn to before me this _____ day of _____, 19__.

_____
Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____
Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his possession which is entitled to be filed under the provisions of the Elections Code Section 29302.

SEC. 13. Section 6494 of the Elections Code is amended to read:

6494. Signers shall certify to the qualifications of the candidate as follows:

NOMINATION PAPER

I, the undersigned signer for _____ for the _____ Party nomination to the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19__, hereby assert as follows:

My knowledge of _____ is sufficient to warrant my urging his election to the office of _____ and in my opinion he is fully qualified, mentally, morally, and physically for the office and should be elected to fill it. I am a qualified voter of _____ County and I am registered as affiliated with the _____ Party and am not at this time a signer of any other nomination paper of any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more nomination papers than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name _____

Residence _____

AFFIDAVIT OF THE CIRCULATOR

I, _____, solemnly swear (or affirm) that I have been appointed according to the provisions of Sections 6497 and 6498 of the Elections Code, as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that the signatures were obtained between _____, 19__ and _____ 19__; that all the signatures on this section of the nomination paper were

made in my presence, and that, to the best of my knowledge and belief, each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

(SEAL) Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper in his possession which is entitled to be filed under the provisions of the Elections Code. (Elections Code Section 29302)

SEC. 14. Section 6551 of the Elections Code is amended to read:

6551. All forms required for nomination and election to all congressional, state, county, and political party county central committee offices shall be furnished only by the county clerk. At the time of issuance of those forms the county clerk shall type in the forms the name of the candidate and the office for which he is a candidate, shall imprint a stamp which reads "Official Filing Form," and shall affix his signature. The forms shall be distributed without charge to all candidates applying for them.

SEC. 15. Section 6552 of the Elections Code is amended to read:

6552. The following fees for filing declarations of candidacy shall be paid to the Secretary of State by each candidate:

(a) Two percent of the first-year salary for the office of United States Senator or for any state office. The fee prescribed in this subdivision does not apply to the office of State Senator, Assemblyman, member of the Board of Equalization, or justice of the court of appeal.

(b) One percent of the first-year salary for the office of Representative in Congress, member of the Board of Equalization, or justice of the court of appeal.

(c) One percent of the first-year salary for the office of State Senator or Assemblyman.

SEC. 16. Section 6614.1 of the Elections Code, is amended to read:

6614.1. In the event there are no more than two candidates for any one office of a county supervisor, such office of county supervisor shall not be placed on the official ballot and shall not be voted upon at the ensuing direct primary election, but such office shall be placed on the official ballot for, and be voted upon at, the ensuing November general election.

SEC. 16.3. Section 8660.1 of the Elections Code, as proposed to be added by Assembly Bill No. 2193, is amended to read:

8660.1. Within 30 days after the direct primary election, the Secretary of State shall send a notice by mail to each person who, as of the following year, will be a member of the state central committee according to the provisions of subdivision (a) of Section 8660. The notice shall inform each such person that:

(a) The person shall appoint members of the state central committee and the number of appointments to which he or she is entitled or will be entitled depending on the outcome of the general election.

(b) The appointment of members of the state central committee shall be made in writing in the form prescribed in Section 8660.2 signed by the person and filed in accordance with the provisions of Section 8666.

(c) Forms of proxy are enclosed, one of which the person may use, and the others of which he or she shall send with the notices of appointment to the state central committee.

SEC. 16.4. Section 8661 of the Elections Code is amended to read:

8661. (a) Each officer named in subdivision (a) of Section 8660 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer, shall be known as a "holdover member."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party shall be known as a "nominee member." Nominees for an office, the term of which extends beyond two years, are members of each succeeding state central committee until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee member" in the year in which he or she is nominated, and is elected to the office at the succeeding general election, the candidate shall be considered a "holdover member" in the next odd-numbered year.

(c) One member shall be appointed pursuant to Section 8675 for each of the officers named in subdivision (a) of Section 8660 not represented by a "holdover member" nor by a "nominee member" of the party.

SEC. 16.5. Section 8667 of the Elections Code, as proposed to be added by Assembly Bill No. 2193, is amended to read:

8667. Within 35 days following the regular statewide general election, each county central committee shall elect members to the state central committee as follows: two members for the first 5,000 registered Democrats, and one member for each 25,000 registered Democrats or portion thereof, over 5,000. The number of registered Democrats shall be as of the most recent report of registration to the Secretary of State.

The members elected pursuant to this section shall be divided as

equally as possible between men and women who are members of the county central committee and were elected at the preceding direct primary or who were appointed pursuant to Section 8873.

SEC. 16.7. Section 9160.5 of the Elections Code is amended to read:

9160.5. The following are members of the state central committee:

(a) Each officer named in subdivision (a) of Section 9160 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer. These members are "holdover members."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election or at a special primary election by that party. These members are "nominee members." Nominees for an office the term of which extends beyond two years are members until the direct primary election at which nominations for the office are again to be made. If a nominee is elected to the office to which he was nominated at the succeeding general election, he shall be considered a "holdover member."

(c) One member appointed for each of the officers named in subdivision (a) of Section 9160, not represented by a "holdover member" nor by a "nominee member" of the party. These members shall be chosen and appointed in the manner provided in subdivision (e) of this section. These members are "appointive members."

(d) If a person qualifies more than once to be a member he shall be a member by virtue of the most recent qualification. The resulting vacancy shall be filled pursuant to subdivision (e).

(e) Vacancies in nominee or holdover memberships shall be filled as follows:

(1) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county. Whenever such a vacancy occurs by virtue of the failure to nominate a person affiliated with the party, no person shall be chosen to fill the vacancy who does not reside in the senatorial or Assembly district involved.

(2) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, by appointment by the county central committee of the party in the county in which the disqualified or deceased member resided, if the vacancy is caused by disqualification or death, or in which the "holdover" or "nominee member" of the opposing party resides, if the vacancy is due to any other cause.

(3) If the vacancy occurs as to a member for a United States Senator from California or as to a member for any of the state officers

named in subdivision (a) of Section 9160, by appointment by the state central committee.

(4) If the vacancy occurs as to a member for any Representative in Congress from California, by appointment by the state central committee of a voter who resides within the congressional district to be represented.

(f) A county central committee may authorize its chairman to appoint members to fill vacancies in the membership which the county central committee has power to fill.

SEC. 16.8. Section 9169 of the Elections Code is amended to read:

9169. In the event of the appointment of an ineligible person, or whenever any member of this committee dies, resigns, or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of the committee's party, a vacancy exists which shall be filled in the manner prescribed in Section 9170. A vacancy shall also exist on this committee when a member is removed from the committee pursuant to Section 9275 or Section 9168, and such vacancy shall be filled in the manner prescribed in Section 9170, such member to serve the remainder of the unexpired term of the member removed.

SEC. 16.9. Section 9611 of the Elections Code is amended to read:

9611. The state convention shall be composed of the following delegates:

(a) Each officer named in Section 9610 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer. These delegates are "holdover delegates."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party. These delegates are "nominee delegates." Nominees for an office the term of which extends beyond two years are delegates to each succeeding state convention until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee delegate" to the state convention held in the year in which he is nominated, and is elected to the office at the succeeding general election, he shall be considered a "holdover delegate" to the state convention of his party in the next odd-numbered year, if his party is required to hold such a convention.

(c) One delegate appointed for each of the officers named in Section 9610 not represented by a "holdover delegate" nor by a "nominee delegate" of the party. These delegates shall be chosen and appointed in the manner provided in this chapter for filing vacancies in the state convention. These delegates are "appointive delegates."

SEC. 17. Section 22031 of the Elections Code is repealed.

SEC. 18. Section 22052 of the Elections Code is amended to read:

22052. The members of the precinct boards provided for in Sections 22050 and 22051 shall be appointed and shall act as provided in this chapter.

SEC. 19. Section 22602 of the Elections Code is amended to read:

22602. The provisions of Section 10211, relating to ballot designations, shall apply to municipal elections, whether held in a general law or chartered city.

SEC. 20. Section 22832 of the Elections Code is amended to read:

22832. Sample ballots and polling places notices shall be printed and mailed to each voter for any municipal election within the time provided by Section 10010.

SEC. 21. Section 22836 of the Elections Code is amended to read:

22836. Candidates may be nominated for any of the elective offices of the city in the manner following:

Not earlier than the 89th day nor later than 12 o'clock noon on the 68th day before a municipal election, the voters may nominate candidates for election by signing a nomination paper. Each candidate shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, and not less than 5 nor more than 10 voters in a city of less than 1,000 registered voters, but only one candidate may be named in any one nomination paper. No voter may sign more than one nomination paper for the same office, and in the event he does so, his signature shall count only on the first nomination paper filed which contains his signature. Nomination papers subsequently filed and containing his signature shall be considered as though his signature does not appear thereon. Each seat on the governing body is a separate office. Any person registered to vote at the election may circulate a nomination paper. Where there are full terms and short terms to be filled, the term shall be specified in the nomination paper.

SEC. 22. Section 22930.5 of the Elections Code is amended to read:

22930.5. The city clerk, or a canvassing board appointed by the city clerk, shall count the votes cast by absent voters. The clerk or board shall commence this count as soon as the polls close on the day of election, and the count shall continue, for not less than six hours each day providing ballots remain to be counted, until all absent voter ballots have been received within the time provided by law. The result of the absent vote count shall be included with the canvass of returns from the precincts.

The canvassing board, if any, shall be appointed and the absent vote count shall be conducted in the manner prescribed by Chapter 5 (commencing with Section 1400) of Division 2, insofar as the provisions of that chapter are not inconsistent with the provisions of this section.

SEC. 23. The heading of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code is amended and renumbered to read:

PART 2.5. CONSOLIDATION OF ELECTIONS

SEC. 24. Section 23510.5 of the Elections Code is amended to read:

23510.5. On the 110th day prior to the day fixed for the general district election the secretary shall deliver a notice to the county clerk. The notice shall bear the secretary's signature and the district seal and shall also contain the following:

(a) The elective offices of the district to be filled at the next general district election;

(b) Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Section 10012.

SEC. 25. Section 25500 of the Elections Code is amended to read:

25500. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election shall file a written and signed declaration of his intention to become a candidate for his party's nomination for that office. The declaration of intention shall be filed with either the Secretary of State or the clerk of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the county clerk or registrar of voters, not more than 15 nor less than 5 days prior to the first day on which his nomination papers may be presented for filing; provided, however, if the incumbent fails to file a declaration of intention by the end of such period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a candidate for the

_____

(Name of political party)

Party's nomination for the office of

_____

(Name of office and district)

at the direct primary election.

_____

(Signature of candidate)

_____

(Address of candidate)

(b) No person may be a candidate nor have his name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election unless he has filed the declaration of intention provided for in this section; provided, however, that if the incumbent of the office files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the

filing of nomination papers for the office, and any person, if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a) of this section.

SEC. 26. Section 27003 of the Elections Code is amended to read:

27003. For the purposes of this division, "governing board" means a city council, the board of supervisors of a county, the board of trustees of a school district or community college district, or the legislative body of a special district, as the context requires. In the case of the recall of a trial court judge, "governing board" means the board of supervisors.

SEC. 27. Section 27211 of the Elections Code is amended to read:

27211. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction.

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

The number of registered voters shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State.

(b) In the case of a state officer, including judges of courts of appeal and trial courts, the number of signatures shall be as provided for in Section 14(b) of Article II of the Constitution. In the case of a judge of a superior, municipal, or justice court, which office has never appeared on the ballot since its creation, the number of signatures shall be as provided in Section 14(b) of Article II of the Constitution except that the percent shall be based on the number of votes cast for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his office.

(c) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

SEC. 28. Section 12581 of the Government Code is amended to read:

12581. This article applies to all charitable corporations and trustees holding property for charitable purposes over which the state or the Attorney General has enforcement or supervisory

powers. The provisions of this article shall not apply to any committee as defined in Section 82013 which is required to and does file any statement pursuant to the provisions of Article 2 (commencing with Section 84200) of Chapter 4 of Title 9.

SEC. 29. Section 12583 of the Government Code is amended to read:

12583. This article does not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation sole or other religious corporation or organization which holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 19 of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 which is required to and does file any statement pursuant to the provisions of Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation organized and operated primarily as a religious organization, educational institution or hospital.

SEC. 30. Section 25041 of the Government Code is amended to read:

25041. In all other cases each member shall have been a registered voter of the district which he seeks to represent for at least 30 days immediately preceding the deadline for filing nomination documents for the office of supervisor, and shall reside in the district during his incumbency.

SEC. 31. Section 34051 of the Government Code is repealed.

SEC. 32. Section 30777 of the Water Code is repealed.

SEC. 33. Section 30777 is added to the Water Code, to read:

30777. The order of candidates names on the ballot shall be as provided by the Elections Code.

SEC. 34. Section 2 of this act, amending Section 70 of the Elections Code, shall not become operative if Senate Bill No. 1904 of the 1977–78 Regular Session of the Legislature is also chaptered and amends Section 70 of the Elections Code.

SEC. 35. Section 3.8 of this act, amending Section 304.5 of the Elections Code, shall only become operative if Assembly Bill No. 2219 of the 1977–78 Regular Session of the Legislature is chaptered before this act and adds Section 304.5 to the Elections Code.

SEC. 36. Sections 7.8, 8, and 10 of this act amending Sections 1642, 1642.3, and 1642.9, respectively, of the Elections Code shall not become operative if Assembly Bill No. 3134 of the 1977–78 Regular Session of the Legislature is also chaptered and repeals Sections 1642, 1642.3, and 1642.9 of the Elections Code.

SEC. 37. Sections 16.3, 16.4, and 16.5 of this act, amending Sections 8660.1, 8661, and 8667, respectively, of the Elections Code shall only become operative if Assembly Bill No. 2193 is chaptered before this act and adds or amends Sections 8660.1, 8661, and 8667 of the Elections Code.

SEC. 38. Section 21 of this act, amending Section 22836 of the Elections Code, shall not become operative if Assembly Bill No. 2224 of the 1977–78 Regular Session of the Legislature is also chaptered and amends Section 22836 of the Elections Code.

CHAPTER 1288

An act to amend Section 10012 of, and to add Section 10012.5 to, the Elections Code, relating to elections.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 10012 of the Elections Code is amended to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself; provided, however, that the governing body of such local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 60th day before the election, if it is for an election for which nomination papers are not required to be filed. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide such translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to

this section, and may require each candidate filing a statement to pay in advance to the local agency his or her pro rata share as a condition of having his or her statement included in the voter's pamphlet.

The clerk shall reject any statement, which contains any obscene, vulgar, profane, scandalous, libelous or defamatory matter, or any language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship, or any language or matter the circulation of which through the mails is prohibited by Congress.

Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

The governing body of the local agency may adopt regulations to permit each candidate for elective office to prepare separately other materials to be sent to each voter in addition to the sample ballot and the voter's pamphlet. Such regulations may pertain to size, weight, form, physical composition, and content of such other materials and may specify that the cost of handling, packaging and mailing may be borne by the local agency authorizing the same or may be billed in whole or in part to the candidate submitting the materials. Such regulations shall apply equally to all candidates, including incumbents. Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement or other materials sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his representative at the time he picks up his nomination papers.

For purposes of this section, and Section 10012.5, the Board of Supervisors shall be deemed the governing body of judicial elections.

SEC. 2. Section 10012.5 is added to the Elections Code, to read:

10012.5. Prior to the nomination period for an election, the governing body of the local agency conducting the election may determine that the provisions of Section 10012 are inapplicable to such election. This section shall become operative only if the United States Supreme Court or the California Supreme Court rules that candidates (other than indigent candidates) may not be required to pay for candidates' statements authorized pursuant to Section 10012.

CHAPTER 1289

An act to amend Sections 6272, 6274, 6311, 6862, 6865, and 6908.5 of the Harbors and Navigation Code, relating to ports.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 6272 of the Harbors and Navigation Code is amended to read:

6272. Contracts for the doing of new construction work or the purchasing of supplies, the cost of which exceeds ten thousand dollars ($10,000), or projects involving maintenance of buildings and improvements, the cost of which exceeds five thousand dollars ($5,000), shall be let by the board upon competitive bidding.

Notice of the proposed letting of contract shall be given by publication pursuant to Section 6061 of the Government Code in the county in which the district is located, at least five days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the district, upon forms furnished by it, and under such rules and regulations as the board may prescribe. All bids shall be publicly opened and declared under procedures established by the board, and the award of the contract shall be made in open session of the board to the lowest and best responsible bidder.

SEC. 2. Section 6274 of the Harbors and Navigation Code is amended to read:

6274. The board may delegate to its officers the execution of contracts in which the amount involved is less than ten thousand dollars ($10,000).

SEC. 3. Section 6311 of the Harbors and Navigation Code is amended to read:

6311. Upon a four-fifths vote of all the members of the board, it may issue negotiable promissory notes bearing interest at a rate of not exceeding 7 percent per annum; provided, however, that said notes shall be payable from revenues and taxes levied for purposes of the district other than the payment of principal and interest on any bonded debt of the district; and provided further, that the maturity shall not be later than 20 years from the date thereof and that the total aggregate amount of such notes outstanding at any one time shall not exceed 1 percent of the assessed valuation of the taxable property in the district, or if said assessed valuation is not obtainable, 1 percent of the county auditor's estimate of the assessed valuation of the taxable property in the district evidenced by his certificate.

SEC. 4. Section 6862 of the Harbors and Navigation Code is amended to read:

6862. Contracts for the doing of new construction work or the

purchasing of supplies, the cost of which exceeds ten thousand dollars ($10,000), or projects involving maintenance of buildings and improvements, the cost of which exceeds five thousand dollars ($5,000), shall be let by the board upon competitive bidding.

Notice of the proposed letting of a contract shall be given by publication pursuant to Section 6061 of the Government Code in the county in which the district is located, at least five days before the time fixed for opening bids. Bidding shall be by sealed proposals filed with the district upon forms furnished by it, and under such rules and regulations as the board may prescribe. All bids shall be publicly opened and declared under procedures established by the board, and the award of the contracts shall be made in open session of the board to the lowest and best responsible bidder. The board may reject any and all bids and readvertise in its discretion.

SEC. 5. Section 6865 of the Harbors and Navigation Code is amended to read:

6865. The board may delegate to its officers the execution of contracts, in which the amount involved is less than ten thousand dollars ($10,000).

SEC. 6. Section 6908.5 of the Harbors and Navigation Code is amended to read:

6908.5. Upon a four-fifths vote of all the members of the board, it may issue negotiable promissory notes bearing interest at a rate of not exceeding 7 percent per annum; provided, however, that said notes shall be payable from revenues and taxes levied for purposes of the district other than the payment of principal and interest on any bonded debt of the district; and provided further, that the maturity date shall not be later than 20 years from the date thereof and that the total aggregate amount of such notes outstanding at any one time shall not exceed 1 percent of the assessed valuation of the taxable property in the district, or if such assessed valuation is not obtainable, 1 percent of the county auditor's estimate of the assessed valuation of the taxable property in the district evidenced by his certificate.

CHAPTER 1290

An act to amend Section 436.8 of, and to add Sections 436.81, 436.82, 436.83, 436.84, and 436.85 to, the Health and Safety Code, relating to health.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1 Section 436.8 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, is amended to read:

436.8. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, such loan shall be secured by a mortgage, first lien, trust indenture, or such other security agreement as the office may require subject only to such conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, such loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements as the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction of the health facility, as approved by the office under Section 436.4. The office may not insure a loan for a health facility which is not needed as determined by the state plan developed under the authorization of Section 436.4.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate which such bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

SEC. 2. Section 436.81 is added to the Health and Safety Code, to read:

436.81. In order to comply with subdivision (j) of Section 436.8, the borrower shall demonstrate that its facility is utilized by persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code in a proportion that is reasonable based upon the proportion of Medi-Cal patients in the community served by the borrower and by persons for whom the costs of care is reimbursed under Title XVIII of the federal Social Security Act in a proportion that is reasonable based upon the proportion of Medicare patients in the community served by the borrower.

For the purposes of this chapter, the community served by the facility shall mean the health facility planning area designated for the planning and review of health facility beds pursuant to Part 1.5 (commencing with Section 437) of this division in which the facility is located, unless the office determines that, or the borrower demonstrates to the satisfaction of the office that, a different definition is more appropriate for the borrower's facility.

SEC. 3. Section 436.82 is added to the Health and Safety Code, to read:

436.82. As part of its assurance under subdivision (j) of Section 436.8, the borrower shall agree to the following actions:

(a) To advise each person seeking services at the borrower's facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third party payers.

(b) To make available to the office and to any interested person a list of physicians with staff privileges at the borrower's facility, which includes:

(1) Name.

(2) Speciality.

(3) Language spoken.

(4) Whether takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practictioners of the healing arts having staff privileges in the borrower's facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the Office of

Statewide Health Planning and Development and this facility."

(d) To post notices in the following form, which shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including but not limited to, admissions offices, emergency rooms, and business offices:

NOTICE OF COMMUNITY SERVICE OBLIGATION

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the Office of Statewide Health Planning and Development."

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrower's facility is located.

SEC. 4. Section 436.83 is added to the Health and Safety Code, to read:

436.83. In the event the borrower cannot demonstrate that it meets the requirement of Section 436.81, it may nonetheless be eligible for a loan under this chapter if it presents a plan that is satisfactory to the office, which details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 436.81.

SEC. 5. Section 436.84 is added to the Health and Safety Code, to read:

436.84. Each borrower shall make available to the office and to the public upon request an annual report substantiating compliance with the requirements of subdivision (j) of Section 436.8. The annual report shall set forth sufficient information and verification therefore to indicate the borrower's compliance. The report shall include at least the following:

(a) By category for inpatient admissions, emergency admission, and where the facility has a separate identifiable outpatient service:

(1) The total number of patients receiving services.

(2) The total number of Medi-Cal patients served.

(3) The total number of Medicare patients served.

(4) The dollar volume of services provided to each patient category listed in paragraphs (1), (2), and (3) of this subdivision.

(b) Where appropriate, the actions taken pursuant to Section 436.83 and the effect such actions have had on the data specified in subdivision (a) of this section.

(c) Such other information as the office may reasonably require.

SEC. 6. Section 436.85 is added to the Health and Safety Code, to

read:

436.85. The office may impose appropriate remedies and sanctions against a borrower when the office determines that the annual compliance report required in Section 436.84 indicates that the borrower is out of compliance with subdivision (j) of Section 436.8. The sanctions shall include, but not be limited to, the following:

(a) Rendering the borrower ineligible for federal and state financial assistance under the Hill-Burton Program.

(b) Requiring a borrower that had originally met the conditions of Section 436.81, but who no longer does, to submit a plan that is satisfactory to the office which details the reasonable steps and timetables that the borrower agrees to take to bring the facility back into compliance with Section 436.81.

(c) Referring the violation to the office of the Attorney General of California for legal action authorized under existing law or other remedy at law or equity, when a facility fails to carry out the actions agreed to in a plan approved by the office pursuant to Section 436.83 or subdivision (b) of this section, or when the facility fails to submit compliance reports as required by Section 436.84.

However, the remedies obtainable by such legal action shall not include withdrawal or cancellation of the loan insurance provided under this chapter.

SEC. 7. It is the intent of the Legislature in enacting this chapter that the amendments to Section 436.8 of the Health and Safety Code, and the addition of Sections 436.81, 436.82, 436.83, 436.84 and 436.85 to the Health and Safety Code, made by this act shall be prospective only in effect and shall apply only to mortgage loan insurance granted subsequent to the effective date of this act.

CHAPTER 1291

An act to amend Sections 1026, 1026.1, 1370.3, and 1374 of the Penal Code, and to amend Sections 6316, 6317, 6325, 6325.1, 7350, 7355 and 7375 of, the Welfare and Institutions Code, relating to judicial commitments.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, he shall first be tried as if he had entered such other plea or pleas only, and in such trial he shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason

of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In such trial the jury shall return a verdict either that the defendant was sane at the time the offense was committed or that he was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court unless it shall appear to the court that the defendant has fully recovered his sanity shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the defendant to undergo outpatient treatment as specified in Section 1026.1 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his designee. If the defendant has been found guilty of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in the first degree or in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to subdivision (f) of Section 7375 of the Welfare and Institutions Code. Prior to making such order directing that the defendant be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. No person shall be admitted to a state hospital or other facility or accepted for outpatient treatment under this section without having been evaluated by the county mental health director or his or her designee. If, however, it shall appear to the court that the defendant has fully recovered his sanity such defendant shall be remanded to the custody of the sheriff until his

sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him shall, after notice and hearing, find and determine that his sanity has been restored. Nothing in this section contained shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority nor the transfer of such patient to a hospital in another state in the manner provided by law, upon order of the superior court in the county from which he was committed, or in which he is detained.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the defendant be transferred to a public or private mental health facility approved by the county mental health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private mental health facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private mental health facility approved by the county mental health director. The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or his designee.

If the defendant is committed to a state hospital or other facility, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court, the prosecuting attorney, and the attorney of record for the defendant setting forth the status and progress of the defendant. A copy of this report shall be furnished to the mental health director of the county of commitment.

SEC. 2. Section 1026 1 of the Penal Code is amended to read:

1026.1. (a) If, in the evaluation ordered by the court under Section 1026, the county mental health director, or his designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a mental health facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the

defendant to undergo outpatient treatment. The court shall inform the prosecuting attorney and the defendant's attorney of record of its intent to make such an order, and shall make the evaluation and recommendation of the county mental health director, or his designee, available to them at least 15 days in advance of its order. The court may hold a hearing prior to ordering outpatient treatment, and may (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed to have been approved. At the request of the prosecuting attorney a hearing shall be held. Prior to filing such announcement of intent the county mental health director, or his designee, shall obtain the agreement of the person in charge of a mental health facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the prosecuting attorney and the attorney of record for the defendant setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the county mental health director or his designee.

(b) When the outpatient supervisor is of the opinion that the defendant has regained his sanity the supervisor shall communicate such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall submit an application for release pursuant to Section 1026a. A copy of the application shall be sent to the county mental health director.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee of his recommendation that the defendant be committed to undergo inpatient treatment in a state hospital or any other public or private mental health facility approved by the county mental health director. Within 15 judicial days, the court shall hold a hearing and shall either disapprove the recommendation or direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court

shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall commit the defendant to a state hospital for the care and treatment of the mentally disordered or to any public or private mental health facility approved by the county mental health director.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending judicial determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 3. Section 1370.3 of the Penal Code is amended to read:

1370.3. (a) If, in the evaluation ordered by the court under Section 1370, the county mental health director, or his designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a mental health facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the defendant to undergo outpatient treatment. The court shall inform the prosecuting attorney and the defendant's attorney of record of its intent to make such an order, and shall make the evaluation and recommendation of the county mental health director, or his designee, available to them at least 15 days in advance of its order. The court may hold a hearing prior to ordering outpatient treatment, and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed approved. The court shall transmit a copy of its order to the county mental health director or his designee. At the request of the prosecuting attorney a hearing shall be held. Prior to filing such announcement of intent the county mental health director, or his designee, shall obtain the agreement of the person in charge of a mental health facility and of the defendant that the defendant will receive and submit to outpatient

treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the county mental health director or his designee.

(b) When the outpatient supervisor is of the opinion that the defendant has recovered competence the supervisor shall communicate such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall certify the opinion to the county mental health director or his designee, committing court, prosecuting attorney, and attorney of record for the defendant. The court shall calendar the case for further proceedings pursuant to Section 1372.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee of his recommendation that the defendant be committed to undergo inpatient treatment in a state hospital or any other public or private mental health facility approved by the county mental health director. Within 15 judicial days, the court shall hold a hearing and shall either disapprove the recommendation or direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others, while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for the defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall

commit the defendant to a state hospital for the care and treatment of the mentally disordered or to any public or private mental health facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending judicial determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 4. Section 1374 of the Penal Code is amended to read:

1374. (a) If the superintendent of a state hospital or other facility to which the defendant is committed or transferred is of the opinion that the defendant is not a danger to the health and safety of others, he may allow the defendant to be treated as an outpatient.

An announcement of intent to place the defendant on outpatient status shall be provided to the committing court, prosecuting attorney, and attorney of record for the defendant at least 15 days in advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed to have been approved.

(b) Prior to filing such announcement of intent the superintendent shall obtain the agreement of the county mental health director, the person in charge of a mental health facility and of the defendant, that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the defendant was committed or transferred, the county mental health director or his designee, and to the person in charge of the mental health facility setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the superintendent of the state hospital or other facility. If the court does not so renew its approval, and the person has not been discharged from commitment, he shall be returned to the state hospital or other facility.

(c) When the outpatient supervisor is of the opinion that the defendant has recovered competence the supervisor shall communicate such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall certify the opinion to the committing court, prosecuting attorney, attorney of

record for the defendant, the county mental health director or his designee, and the director of the state hospital or other facility. The court shall calendar the case for further proceedings pursuant to Section 1372.

(d) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee of his recommendation that the defendant be committed to a state hospital or any other public or private mental health facility approved by the county mental health director. Within 15 judicial days, the court shall hold a hearing and shall either disapprove the recommendation or direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director.

(e) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for the defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall order the defendant returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 1370.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(f) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to subdivisions (b), (c), and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 5. Section 6316 of the Welfare and Institutions Code is

amended to read:

6316. If, after examination and hearing, the court finds that the person is a mentally disordered sex offender and that the person could benefit by treatment in a state hospital, or other mental health facility the court in its discretion has the alternative to return the person to the criminal court for further disposition, or may make an order committing the person to the department for placement in a state hospital, or may commit the person to the county mental health director for placement in an appropriate public or private mental health facility, approved by such director, and a copy of such commitment shall be personally served upon said person within five days after the making of such order. The court shall transmit a copy of its order to the county mental health director or his designee. Prior to making such order, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be committed to a state hospital or to another mental health facility. No person shall be admitted to a state hospital or other facility without having been evaluated by the county mental health director or his or her designee.

If after examination and hearing, the court finds that the person is a mentally disordered sex offender but will not benefit by care or treatment in a state hospital or other facility the court shall then cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge. Such court shall resume the proceedings and shall impose sentence or make such other suitable disposition of the case as the court deems necessary.

SEC. 6. Section 6317 of the Welfare and Institutions Code is amended to read:

6317. If the court orders the commitment of the person to the department for placement in a state hospital or to the county mental health director for placement in an appropriate facility, the court shall, in the order of commitment, require the superintendent of the state hospital or other facility to make periodic reports to the court concerning the person's progress towards recovery.

The first such report shall be submitted within 90 days after the person is received at the state hospital or other facility. Subsequent reports shall be submitted at six-month intervals unless a shorter interval is ordered by the court, and copies of all progress reports shall be provided to the defendant, his attorney of record, the attorney for the people, and the county mental health director or his designee.

SEC. 7. Section 6325 of the Welfare and Institutions Code is amended to read:

6325. Whenever a person who is committed for an indeterminate period to the department for placement in a state hospital or to a county mental health director for placement in an appropriate

facility (a) has been treated to such an extent that in the opinion of the superintendent or county mental health director the person will not benefit by further care and treatment in the hospital or facility and is not a danger to the health and safety of others, or (b) has not recovered, and in the opinion of the superintendent or county mental health director the person is still a danger to the health and safety of others, the superintendent of the hospital or county mental health director shall file with the committing court a certification of his opinion under (a) or (b), as the case may be, including therein a report, diagnosis and recommendation concerning the person's future care, supervision or treatment and shall furnish a copy thereof to the county mental health director. Upon the expiration of the time for making a motion pursuant to Section 6325.1, upon the denial of such motion, or upon the entry of a finding that the person is no longer a mentally disordered sex offender after a hearing pursuant to Section 6325.1, the committing court shall thereupon order the return of the person to said committing court and shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge.

Such court shall resume the proceedings, upon the return of the person to the court, and after considering all the evidence before it may place the person on probation upon such terms as may be required to protect the public if the criminal charge permits such probation and the person is otherwise eligible for probation. In any case, where the person is sentenced on a criminal charge, the time the person spent under indeterminate commitment as a mentally disordered sex offender shall be credited by the court or community release board against such sentence.

SEC. 8. Section 6325.1 of the Welfare and Institutions Code is amended to read:

6325.1. If a mentally disordered sex offender is committed or transferred to a state hospital pursuant to this article, the committing court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the person be transferred to a public or private mental health facility approved by the county mental health director, order the person transferred to such facility. If the person is committed or transferred to a public or private mental health facility approved by the county mental health director, the committing court may, upon receiving the written recommendation of the county mental health director or his designee, transfer the person to a state hospital.

The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

Prior to making an order for transfer under this section, the court shall notify the person, the prosecuting attorney, attorney of record for the person, and the county mental health director or his designee.

(a) If the superintendent of the state hospital or other facility to which the person is committed or transferred as a mentally disordered sex offender is of the opinion that a person has improved to such an extent that he is no longer a danger to the health and safety of others and will benefit from outpatient treatment, the superintendent may file with the committing court an announcement of intent to place the person on outpatient treatment. In those cases where the person has been found guilty of murder, assault with intent to commit murder, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, or if the person has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the superintendent of the state hospital or other facility to which the person is committed shall not file a petition for outpatient treatment until the person has been confined in the facility for a minimum of 90 days. Within 15 days after receipt of the announcement of intent, after notice to the prosecuting attorney and to the attorney of record for the person, the court shall, after a hearing in open court, approve or disapprove the announcement of intent. If the approval of the court is given, the person shall be treated as an outpatient. Prior to filing such an announcement of intent the superintendent shall obtain the agreement of the county mental health director or his designee, the person in charge of a mental health facility and the person who has been recommended for outpatient treatment that the person will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the person. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the person was committed, the county mental health director or his designee, and to the person in charge of the mental health facility setting forth the status and progress of the person. The maximum period of such treatment, shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the recommendation of the medical director of the state hospital or other facility. If the court does not so renew its approval and the person has not been discharged from commitment, he shall be returned to the state hospital or other facility.

(b) When the outpatient supervisor is of the opinion that the person is no longer a mentally disordered sex offender, the supervisor shall communicate such opinion to the person in charge of the facility, and if the person in charge of the facility concurs, he

shall certify the opinion to the committing court, prosecuting attorney, attorney of record for the person, the county mental health director or his designee, and the director of the state hospital or other facility. The court shall calendar the case for further proceedings pursuant to Section 6325.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the person requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the attorney for the people, the attorney of record for the person, and the county mental health director or his designee of his recommendation that the person be committed to undergo inpatient treatment in a state hospital or other facility. Within 15 judicial days, the court shall hold a hearing and shall either disapprove the recommendation or direct that the person be confined in a state hospital or other public or private mental health facility approved by the county mental health director.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the person is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the person shall be continued on outpatient treatment. Upon receipt of the petition, the court shall calendar the case for further proceedings and the clerk shall notify the person, outpatient supervisor, attorney of record for the person, and the county mental health director or his designee of the calendared date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2 of the Penal Code, the judge of the committing court determines that the person is a danger to the health and safety of others, he shall order the person returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 6316.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 9. Section 7350 of the Welfare and Institutions Code is

amended to read:

7350. The provisions of this article except for Section 7355 shall not apply to any patient held upon an order of a court or judge in a proceeding arising out of a criminal action.

SEC. 10. Section 7355 of the Welfare and Institutions Code is amended to read:

7355. No patient shall be discharged or, granted a leave of absence, or placed on parole or outpatient care from a state hospital without suitable clothing adapted to the season in which he is discharged; and, if it cannot otherwise be obtained, the superintendent, under general conditions prescribed by the department having jurisdiction of the hospital, shall furnish such clothing and money, not exceeding fifty dollars ($50), to defray the necessary expenses of such patient who is going on leave of absence, parole or outpatient care or is to be discharged, until he can reach his relatives or friends, or find employment to earn a subsistence.

The superintendent may, under general conditions prescribed by the department having jurisdiction of the hospital, furnish to patients while on leave of absence such incidental moneys, supplies or services as are necessary and advisable in the care, supervision and rehabilitation of such patients on leave of absence. Payments therefor shall be made from funds available for support of patients in the state hospital or hospitals from which such patients have been granted a leave of absence.

SEC. 11. Section 7375 of the Welfare and Institutions Code is amended to read:

7375. (a) A patient committed to a state hospital or other facility under the provisions of Chapter 6 (commencing with Section 1367), Title 10, Part 2, of the Penal Code, shall, upon the certificate of the medical director of the hospital or facility that the person has recovered, approved by the superior judge of the county from which the patient was committed, be redelivered to the sheriff of such county, and dealt with in accordance with the provisions of Chapter 6 of the Penal Code. The sheriff shall immediately return the person to the court for further proceedings. Within two judicial days of the person's return, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on his own recognizance pending conclusion of the proceedings.

(b) A person committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code shall be released therefrom only upon determination that his sanity has been restored, as provided in Sections 1026 and 1026a of the Penal Code, except as otherwise expressly provided in subdivisions (c), (d), or (f) of this section.

(c) Whenever any such person has been confined in a state hospital or other facility for 90 days or more, after having been committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code in a criminal proceeding in which the offense alleged to have been committed by such person was

punishable by a penalty other than death, and the medical director of the hospital or facility is of the opinion that the person has improved to such an extent that he is no longer a danger to the health and safety of others and that the person will receive benefit from parole, the medical director may certify said opinion to the committing court and to the county mental health director or his designee. Within 30 days after the receipt of the certification, after notice to the person, the prosecuting attorney, the attorney of record for the person, and the county mental health director or his designee, the court shall, after a hearing in open court, approve or disapprove such recommendation. The court shall transmit a copy of its order to the county mental health director or his designee. If the approval of the court is given, the medical director of the hospital or other facility may parole the person under such terms and conditions as the medical director specifies. The parole shall be on the same general terms and conditions as parole of the mentally disordered committed under the provisions of this code. The parole supervisor shall, at six-month intervals, following the beginning of parole status, submit a written report to the court and to the state hospital from which the person was placed on parole, setting forth the status and progress of the person. If the court disapproves of such recommendation, no further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendations.

(d) Whenever any such person has been confined in a state hospital or other facility for three years or more, after having been committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code in a criminal proceeding in which the offense alleged to have been committed by such person was punishable by death, and the medical director of the hospital or facility is of the opinion that the person has improved to such an extent that he is no longer a danger to the health and safety of others and that the person will receive benefit from parole, the medical director may certify said opinion to the committing court and to the county mental health director or his designee. Within 30 days after the receipt of the certification, after notice to the prosecuting attorney and the county mental health director or his designee, the court shall, after a hearing in open court, approve or disapprove such recommendation. The court shall transmit a copy of its order to the county mental health director or his designee. If the approval of the court is given, the medical director of the hospital or other facility may parole the person under such terms and conditions as the medical director specifies. The parole shall be on the same general terms and conditions as parole of the mentally disordered committed under the provisions of this code. The parole supervisor shall, at six-month intervals, following the beginning of parole status, submit a written report to the court and to the state hospital from which the person was placed on parole, setting forth the status and progress of the person. If the court disapproves of such recommendation, no

further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendation.

(e) If at any time during the period of parole under subdivisions (c) and (d) the supervisor of the paroled person is of the opinion that the person no longer meets the conditions of parole and needs extended inpatient treatment, or that the person refuses to accept parole supervision, he shall communicate this information to the medical director of the inpatient facility from which the person was paroled, or his designee. If the medical director or his designee concurs, the parole supervisor shall notify the paroled person, the committing court, the prosecuting attorney, and the attorney of record for the person of his intent to return the person to an inpatient facility. Such notice shall be in writing and shall state the reasons for the transfer. Within 15 judicial days after the notice has been served on the paroled person, the court shall set a hearing at which the court shall determine whether the transfer will be approved or disapproved. A paroled person who requires inpatient treatment pending the court's determination whether return to an inpatient facility shall be approved shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300. A person whose return from parole status to an inpatient facility is approved under this section shall not be released again on parole unless court approval is again obtained under subdivision (c) or (d).

(f) (1) If the medical director of the state hospital or other facility is of the opinion that a person who has been committed to the state hospital or other facility pursuant to Section 1026 of the Penal Code has improved to such an extent that he is no longer a danger to the health and safety of others while on outpatient treatment and will benefit from outpatient treatment, the medical director may allow the person to be treated as an outpatient.

An announcement of intent to place the person on outpatient status shall be filed with the court of commitment, the prosecuting attorney, and attorney of record for the person at least 15 days in advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed approved. The court shall transmit a copy of its order to the county mental health director or his designee. At the request of the prosecuting attorney, a hearing shall be held. Prior to filing such announcement of intent the medical director shall obtain the agreement of the county mental health director, the person in charge of a mental health facility and the person who has been recommended for outpatient treatment, that the person will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the person. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the person was committed and to the person in charge of the

mental health facility setting forth the status and progress of the person. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the recommendation of the medical director of the state hospital or other facility. The court shall communicate such renewal to the county mental health director or his designee. If the court does not so renew its approval and the person has not been discharged from commitment, he shall be returned to the state hospital or other facility.

(2) When the outpatient supervisor is of the opinion that the person has regained his sanity, the supervisor shall communicate such opinion to the person in charge of the facility, and if the person in charge of the facility concurs, he shall certify the opinion to the person, the committing court, the prosecuting attorney, the attorney of record for the person, the county mental health director or his designee, and the director of the state hospital or other facility. The court shall calendar the case for further proceedings for release pursuant to Section 1026a of the Penal Code.

(3) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the person refuses to accept outpatient treatment, or requires inpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the person, and the county mental health director or his designee of his recommendation that the person be committed to undergo inpatient treatment in a state hospital or other mental health facility. Within 15 judicial days, the court shall hold a hearing and shall either disapprove the recommendation or direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director.

(4) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the person is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the person shall be continued on outpatient treatment. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code. Upon receipt of the petition, the court shall calendar the case for further proceedings and the clerk shall notify the person, outpatient supervisor, the county mental health director or his designee, and attorney of record for the person of the calendared date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for the person. If, after a hearing in open court, the judge of the committing court determines that the person is a danger to the health and safety of others, he shall order the person returned to the state hospital or

other facility to which he was committed pursuant to Section 1026 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(5) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to paragraphs (3) and (4) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code. The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

(g) A convict received into a state hospital under the provisions of Section 2684 of the Penal Code, shall, on recovery, be returned to prison in accordance with the provisions of Section 2685 of the Penal Code.

SEC. 12. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1292

An act to add Sections 210 and 211.3 to the Health and Safety Code, relating to a cancer study, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 210 is added to the Health and Safety Code, to read:

210. (a) The department shall conduct an epidemiological study of the incidence of cancer. The study shall encompass the five counties comprising the San Francisco-Oakland Standard Metropolitan Statistical Area and one additional county whose economy has a significant agricultural component and for which data relating to cancer are available or can be compiled in a form that is suitable for use in conjunction with the data now available, and to be compiled, in such five counties. The study shall include the monitoring of cancers associated with suspected carcinogens encountered by the general public both in occupational locations and in the environment generally.

(b) The study shall be under the direction of the director, who may enter into such contracts as are necessary for the conduct of the study and may accept, on behalf of the state, grants of public or private funds for the study. The director shall designate the agricultural county for inclusion in the study.

(c) The director shall report to the Legislature on or before December 31, 1978, regarding the design adopted for the study, and on or before December 31, 1979, regarding the preliminary results of such study.

(d) It is the intent of the Legislature that an appropriation be included in each Budget Act in an amount sufficient to provide for the annual cost of the study.

SEC. 2. Section 211.3 is added to the Health and Safety Code, to read:

211.3. (a) Upon the request of any county, the director shall designate cancer as a disease required to be reported in that county if the director determines that the cancer data to be compiled, and the format thereof, will be compatible for use in conjunction with cancer data compiled and used by the state department. All cancers diagnosed or treated in the county shall thereafter be reported to the representative of the state department authorized to compile the cancer data or any individual, agency, or organization cooperating with such representative.

(b) All information reported pursuant to this section shall be confidential, as provided in Section 211.5, and shall be used for the purpose of determining the sources of malignant neoplasms and evaluating measures designed to eliminate, alleviate, or ameliorate their effect.

(c) The director shall adopt regulations for implementation of this section.

(d) For the purposes of this section, "cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

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

The data presently available for the monitoring of cancer in the San Francisco-Oakland Standard Metropolitan Statistical Area and elsewhere in the state are not adequate for the purpose of identifying environmental causes of cancer and determining appropriate preventative measures. A comprehensive study is necessary at the earliest possible time in order to develop such preventative measures. Further, other epidemiological research regarding cancer that some counties are planning to undertake will be significantly delayed unless the confidentiality of information regarding cancers diagnosed or treated in such counties is assured by law. Accordingly, it is necessary that this act take effect immediately.

CHAPTER 1293

An act to amend Section 26668.3 of, and to repeal Sections 26668.1, 26668.7, 26668.8, and 26669 of, and to repeal and add Sections 26668.4 and 26668.6 to, the Health and Safety Code, relating to drugs.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 26668.1 of the Health and Safety Code is repealed.

SEC. 2. Section 26668.3 of the Health and Safety Code is amended to read:

26668.3. Prior to prescribing or administering an experimental drug, consent to the use of the drug shall be obtained in the method and manner specified in Chapter 1.3 (commencing with Section 24170) of Division 20.

SEC. 3. Section 26668.4 of the Health and Safety Code is repealed.

SEC. 4. Section 26668.4 is added to the Health and Safety Code, to read:

26668.4. (a) Notwithstanding the provisions of Section 24175, if the subject is a minor, consent shall be provided by a parent or guardian of the subject and shall also be provided by the subject if the subject is seven years of age or older.

(b) Consent given pursuant to this section shall only be for the prescribing or administering of an experimental drug which is related to maintaining or improving the health of the subject or related to obtaining information about a pathological condition of the subject.

SEC. 5. Section 26668.6 of the Health and Safety Code is repealed.

SEC. 6. Section 26668.6 is added to the Health and Safety Code, to read:

26668.6. Prior to administering an experimental drug, the experimental activity as a whole, including the consent procedures required by Section 26668.3, shall be reviewed and approved by a committee for the protection of human subjects that is acceptable, as determined by the State Department of Health Services. A committee for the protection of human subjects which operates under a general or special assurance approved by the federal Department of Health, Education, and Welfare pursuant to Part 46 of Title 45 of the Code of Federal Regulations shall be an acceptable committee for purposes of this section. A copy of the consent procedures approved by a committee for the protection of human subjects shall be filed with the State Department of Health Services prior to the commencement of the experiment.

SEC. 7. Section 26668.7 of the Health and Safety Code is repealed.

SEC. 8. Section 26668.8 of the Health and Safety Code is repealed.

SEC. 9. Section 26669 of the Health and Safety Code is repealed.

CHAPTER 1294

An act to amend Sections 5008, 5151, 5350, 5354, 5361, and 5362 of, and to add Sections 5254.1, 5350.1, and 5352.6 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered

complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great

bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means each of the persons specified in Sections 830.1 and 830.2 of the Penal Code;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(*l*) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 2. Section 5151 of the Welfare and Institutions Code is amended to read:

5151. If the facility for 72-hour treatment and evaluation admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours. Saturdays, Sundays, and holidays may be excluded from the 72-hour period if the Department of Mental Health certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

If in the judgment of the professional person in charge of the facility providing evaluation and treatment, or his designee, the person can be properly served without being detained, he shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.

SEC. 3. Section 5254.1 is added to the Welfare and Institutions Code, to read:

5254.1. When the professional person in charge of the intensive treatment facility, or his designee, detains a person under Sections 5150 and 5250, the total period of detention, including both voluntary

and involuntary periods, shall not exceed the total maximum period during which the person could have been detained if the person had been detained continuously on an involuntary basis from the time of initial admission, unless the person agrees to remain voluntarily after such time limit has passed.

SEC. 4. Section 5350 of the Welfare and Institutions Code is amended to read:

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism.

The procedure for establishing, administering and terminating conservatorship under this chapter shall be the same as that provided in Division 5 (commencing with Section 1701) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) Appointment of a conservator under this part shall be subject to the list of priorities in Section 1753 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(c) When a gravely disabled person already has a guardian or conservator, the superior court may appoint him or another person as conservator under the provisions of this chapter.

(d) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue whether he is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, such demand shall constitute a waiver of the hearing.

Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Sections 1754 and 1851.1 of the Probate Code.

(f) As otherwise provided in this chapter.

SEC. 5. Section 5350.1 is added to the Welfare and Institutions Code, to read:

5350.1. The purpose of conservatorship, as provided for in this article, is to provide individualized treatment, supervision, and placement.

SEC. 6. Section 5352.6 is added to the Welfare and Institutions Code, to read:

5352.6. Within 10 days after conservatorship of the person has been established under the provisions of this article, there shall be

an individualized treatment plan unless treatment is specifically found not to be appropriate by the court. The treatment plan shall be developed by the Short-Doyle Act community mental health service, the staff of a facility operating under a contract to provide such services in the individual's county of residence, or the staff of a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide inpatient psychiatric treatment. The individualized treatment plan shall specify goals for the individual's treatment, the criteria by which accomplishment of the goals can be judged, and a plan for review of the progress of treatment. The goals of the treatment plan shall be equivalent to reducing or eliminating the behavioral manifestations of grave disability. If a treatment plan is not developed as provided herein then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the conservator, or the attorney of record for the conservatee.

When the progress review determines that the goals have been reached and the person is no longer gravely disabled, a person designated by the county shall so report to the court and the conservatorship shall be terminated by the court.

If the conservator fails to report to the court that the person is no longer gravely disabled as provided herein, then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the attorney of record for the conservatee.

The department shall adopt regulations defining the elements of the treatment plan and the requirements and responsibilities for progress review. The regulations shall differentiate between placement, supervision, and treatment.

SEC. 7. Section 5354 of the Welfare and Institutions Code is amended to read:

5354. The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational and social condition, and shall contain all available information concerning the person's real and personal property. The facilities providing intensive treatment or comprehensive evaluation shall disclose any records or information which may facilitate the investigation. If the officer providing conservatorship investigation recommends against conservatorship, he shall set forth all alternatives available. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and

to the person recommended for conservatorship. The court may receive such report in evidence and may read and consider the contents thereof in rendering its judgment.

SEC. 8. Section 5361 of the Welfare and Institutions Code is amended to read:

5361. Conservatorship initiated pursuant to this chapter shall automatically terminate one year after the appointment of the conservator by the superior court. The period of service of a temporary conservator shall not be included in the one-year period. Where the conservator has been appointed as conservator of the estate, the conservator shall, for a reasonable time, continue to have such power and authority over the estate as the superior court, on petition by the conservator, may deem necessary for (1) the collection of assets or income which accrued during the period of conservatorship, but were uncollected before the date of termination, (2) the payment of expenses which accrued during period of conservatorship and of which the conservator was notified prior to termination, but were unpaid before the date of termination, and (3) the completion of sales of real property where the only act remaining at the date of termination is the actual transfer of title. If upon the termination of an initial or a succeeding period of conservatorship the conservator determines that conservatorship is still required, he may petition the superior court for his reappointment as conservator for a succeeding one-year period. The petition must include the opinion of two physicians that the conservatee is still gravely disabled as a result of mental disorder or impairment by chronic alcoholism. In the event that the conservator is unable to obtain the opinion of two physicians, he shall request that the court appoint them.

Any facility in which a conservatee is placed must release the conservatee at his request when the conservatorship terminates. A petition for reappointment filed by the conservator or a petition for appointment filed by a public guardian shall be transmitted to the facility at least 30 days before the automatic termination date. The facility may detain the conservatee after the end of the termination date only if the conservatorship proceedings have not been completed and the court orders the conservatee to be held until the proceedings have been completed.

SEC. 9. Section 5362 of the Welfare and Institutions Code is amended to read:

5362. (a) The clerk of the superior court shall notify each conservator, his conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be by certified mail. The notification shall be in substantially the

following form:

In the Superior Court of the State of California
for the County of _____

The people of the State of California No.____
Concerning Notice of Termination
_____ of Conservatorship

The people of the State of California to _____
_____ :

(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)

The one-year conservatorship established for _____ pursuant to Welfare and Institutions Code Section _____ on _____ will terminate on _____. If the conservator, _____, wishes to reestablish conservatorship for another year he must petition the court by _____. Subject to a request for a court hearing or jury trial the judge may, on his own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

_____

(Signed, Judge of the Superior Court)

(b) Subject to a request for a court hearing or jury trial, the judge may, on his own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and his conservatee by certified mail and shall be accompanied by a statement of California law as set forth in Section 5368.

SEC. 10. The Director of the Department of Mental Health and the Director of the Judicial Council shall submit a report no later than July 1, 1979, to the appropriate policy committees of the Legislature concerning the development of jury instructions for conservatorship proceedings.

CHAPTER 1295

An act to amend Section 2399.5 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 2399.5 of the Business and Professions Code is amended to read:

2399.5. (a) Prescribing, dispensing or furnishing dangerous drugs as defined in Section 4211 of the Business and Professions Code without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct within the meaning of this chapter.

(b) No physician and surgeon shall be found to have committed unprofessional conduct within the meaning of subdivision (a) if, at the time drugs were prescribed, dispensed, or furnished:

(1) The physician and surgeon was a designated physician serving in the absence of the patient's physician, provided such drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his physician, but in any case no longer than 72 hours; or

(2) The physician and surgeon transmitted the order for such drugs to a registered nurse in an inpatient facility provided that such physician and surgeon has consulted with a registered nurse who has reviewed the patient's records and provided that such physician and surgeon was designated as the physician to serve in the absence of the patient's physician; or

(3) The physician and surgeon was a designated physician serving in the absence of the patient's physician and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.

CHAPTER 1296

An act to add Section 43.9 to the Civil Code, relating to health.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 43.9 is added to the Civil Code, to read:

43.9. (a) There shall be no liability on the part of, and no cause of action shall accrue against, any health care provider for professional negligence on account of the receipt by such provider of an unsolicited referral, arising from a test performed by a multiphasic screening unit, for any act or omission, including the failure to examine, treat, or refer for examination or treatment any person concerning whom an unsolicited referral has been received. The immunity from liability granted by this subdivision shall only apply where a health provider meets the obligations established in subdivision (c).

(b) Every multiphasic screening unit shall notify each person it tests that the person should contact the health provider to whom the test results are sent within 10 days and that the health provider may not be obligated to interpret the results or provide further care. The multiphasic screening unit shall include the words "PATIENT TEST RESULTS" on the envelope of any test results sent to a health care provider, and shall include the address of the person tested in the test result material sent to the health care provider.

Nothing contained in this section shall relieve any health care provider from liability, if any, when at the time of receipt of the unsolicited referral there exists a provider-patient relationship, or a contract for health care services, or following receipt of such unsolicited referral there is established or reestablished a provider-patient relationship.

(c) A health care provider who receives unsolicited test results from a multiphasic screening unit shall receive immunity from liability pursuant to subdivision (a) only if the provider who receives such test results and does not wish to evaluate them, or evaluates them and takes no further action, either notifies the multiphasic screening unit of that fact or returns the test results within 21 days. If the health care provider reviews the test results and determines that they indicate a substantial risk of serious illness or death the provider shall make a reasonable effort to notify the person tested of the presumptive finding within 14 days after the provider has received the test results.

(d) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" also includes the legal representatives of a health care provider.

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's

negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

(3) "Unsolicited referral" means any written report regarding the health, physical or mental condition of any person which was forwarded or delivered to a health care provider without prior request by such provider.

(4) A "multiphasic screening unit" means a facility which does not prescribe or treat patients but performs diagnostic testing only.

CHAPTER 1297

An act to add Section 43.95 to the Civil Code, relating to negligence.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 43.95 is added to the Civil Code, to read:

43.95. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society or any nonprofit corporation authorized by such society to operate a referral service, or their agents, employees, or members, for referring any member of the public to any professional member of such society, or for acts of negligence or conduct constituting unprofessional conduct committed by a professional to whom a member of the public was referred, so long as any of the foregoing persons or entities has acted without malice, and the referral was made at no charge as part of a public service referral system organized under the auspices of the professional society. "Professional society" includes legal, psychological, architectural, dental, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society.

(b) This section shall not apply whenever the professional society, while making a referral to a professional member of such society, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by a state licensing agency against that professional member. However, there shall be no duty to disclose a disciplinary action in either of the following cases:

(1) Where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred; or

(2) Where a period of three years has elapsed since the

professional to whom a member of the public was referred has satisfied any terms, conditions, or sanctions imposed upon such professional as disciplinary action.

CHAPTER 1298

An act to amend Section 1480 of the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 1480 of the Unemployment Insurance Code is amended to read:

1480. Notwithstanding Sections 2700 and 2791 of the Penal Code, or any other provision of law, inmates of any state prison or institution under the jurisdiction of the Department of Corrections shall be considered in "employment" for all purposes under this division in connection with any productive work by inmates who do or may receive compensation pursuant to Section 2700, 2762, 2782, 3323, or other provision of the Penal Code, or in connection with the participation by inmates in a vocational training program approved by the Department of Corrections as permitted in the Constitution. Except as modified by this chapter, any such inmate shall, after his or her release on parole or discharge, be eligible for benefits on the same terms and conditions as are specified by this part, and Part 3 (commencing with Section 3501) and Part 4 (commencing with Section 4001) of this division, for all other individuals, and unemployment compensation disability benefits on the same terms and conditions as are specified by Part 2 (commencing with Section 2601) of this division for all other individuals.

For unemployment compensation benefits purposes, an individual may use wages, as defined by Section 1481, only with respect to the benefit year established by the first new claim for unemployment compensation benefits, including any extended duration benefits or federal-state extended benefits related to that new claim. Notwithstanding any other provision of this division, in no event shall any such individual receive payments of unemployment compensation benefits, extended duration benefits, federal-state extended benefits, or disability benefits, separately or in any combination, for more than 26 weeks. No new claims for unemployment compensation benefits or first claims for disability benefits pursuant to this chapter may be filed with an effective date or period of disability commencing on or after October 31, 1983, if

such claim uses wages as defined by Section 1481. Except as inconsistent with the provisions of this chapter, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this chapter.

SEC. 2. This act shall remain in effect only until November 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before November 1, 1983, deletes or extends such date. Any new claim for unemployment compensation benefits or first claims for disability benefits pursuant to this chapter filed with an effective date or period of disability commencing prior to November 1, 1983, shall continue to receive benefits provided by this chapter after November 1, 1983, provided, however, that no claim for benefits pursuant to this chapter may use wages, as defined by Section 1481, which are earned after July 1, 1982.

SEC. 3. This act shall be operative on July 1, 1978.

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

Chapter 1149, which was enacted during the 1977 portion of the 1977–78 Regular Session of the Legislature, becomes operative July 1, 1978. This bill amends a section of law contained in such chapter and it is necessary that such amendment be operative at the same time that Chapter 1149 becomes operative.

CHAPTER 1299

An act to add Section 653s to the Penal Code, relating to music.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 653s is added to the Penal Code, to read:

653s. (a) Any person who sells or causes to be sold, transports or causes to be transported for monetary or other consideration within this state, any article containing sounds of a live performance with the knowledge that the sounds thereon have been recorded or fixed without the consent of the owner of the sounds of the live performance is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(b) As used in this section:

(1) "Live performances" means the recitation, rendering, or playing of a series of musical, spoken, or other sounds in any audible sequence thereof.

(2) "Article" means the original disc, wire, tape, film, phonograph record or other recording device used to record or fix the sounds of the live performance and any copy or reproduction thereof which duplicates, in whole or in part, the original.

(3) "Person" means any individual, partnership, partnerships' member or employee, corporation, association or corporation or association employee, officer or director.

(c) In the absence of a written agreement or operation of law to the contrary, the performer or performers of the sounds of a live performance shall be presumed to own the right to record or fix those sounds.

(d) This section shall neither enlarge nor diminish the rights and remedies of parties to a recording or fixation of sounds which they might otherwise possess by law.

(e) This section shall not apply to persons engaged in radio or television broadcasting who record or fix the sounds of a live performance for, or in connection with, broadcast transmission and related uses in educational television or radio programs, for archival purposes, or for news programs or purposes if such recordation or fixation of sounds is not commercially distributed independent of such broadcast by or through the broadcasting entity to the general public.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there by any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1300

An act making an appropriation to the Office of Statewide Health Planning and Development, relating to health personnel training programs.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. The sum of two million nine hundred thirty two thousand five hundred dollars ($2,932,500) is hereby appropriated from the General Fund to the Office of Statewide Health Planning and Development for expenditure during the 1979–80, 1980–81, 1981–82, and 1982–83 fiscal years in accordance with the following schedule·

(a) For contracts with accredited medical schools, with programs which train primary care physician's assistants, with programs which train primary care nurse practitioners, and with hospitals or other health care delivery systems located in California, which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code as follows:

(1) For continuation of existing program $2,332,500

(2) For continuation of special programs providing faculty and staff to primary care physician's assistant, nurse practitioner, and family practice residency training programs for the purpose of training primary health care teams $500,000

(b) For the period from July 1, 1979, to September 30, 1983, for insuring proper administration and evaluation of training contracted for pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code $100,000

CHAPTER 1301

An act to add Chapter 9 (commencing with Section 19825) to Part 3 of Division 13 of the Health and Safety Code, relating to building permits.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Chapter 9 (commencing with Section 19825) is added to Part 3 of Division 13 of the Health and Safety Code, to read:

CHAPTER 9. LOCAL BUILDING PERMITS

19825. Every city or county, which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, shall, in addition to any other requirements, print the following declarations in substantially the following form upon the front side, left column of any building permit issued:

BUILDING PROJECT IDENTIFICATION

Applicant's Mailing Address _____

_____

Address of Building _____

_____

Owner's name _____

Telephone No. _____

Contractor's Name _____
Contractor's Mailing Address _____
_____
Lic. No. _____

Architect or Engineer _____
Architect's or Engineer's Address _____
Lic. No. _____

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.
License Class _____ Lic. Number _____
Date _____ Contractor _____

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500).):

☐ I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he did not build or improve for the purpose of sale.).

☐ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law.).

☐ I am exempt under Sec. _____, B.&P.C. for this

reason _____
Date _____ Owner _____

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab.C.).
Policy No. _____ Company _____
☐ Certified copy is hereby furnished.
☐ Certified copy is filed with the county building inspection department or county _____ department.
Date _____ Applicant _____

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the permit is for one hundred dollars ($100) or less.)
I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.
Date _____ Applicant _____
NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ.C.).
Lender's Name _____
Lender's Address _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes.

_____ _____
Signature of Applicant or Agent Date

19826. No city or county, whether general law or chartered, shall issue a building permit which does not contain all applicable declarations required by Section 19825 properly executed by the owner, applicant, or agent of such owner or applicant. Such properly executed declarations shall be a condition for issuance of such

building permit.

19827. (a) The Legislature hereby finds and declares that there is an urgent and statewide public interest in assuring that building contractors comply with the Contractors License Law (Chapter 9 (commencing with Section 7000), Division 3, Business and Professions Code) and provisions of law relating to Workers' Compensation Insurance for building construction, and that uniformity of enforcement necessitates that the provisions of this chapter apply uniformly statewide.

(b) This chapter shall become operative on July 1, 1980.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because revenue is provided pursuant to Section 19132.3 of the Health and Safety Code to cover such costs.

CHAPTER 1302

An act to add Section 2192.2 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 2192.2 is added to the Business and Professions Code, to read:

2192.2. (a) Notwithstanding Section 2192, any applicant whose application is based upon graduation from a school located outside of California need not show that he or she has received adequate instruction in human sexuality in order to be eligible for licensure.

(b) Any person who is licensed in this state without adequate instruction in human sexuality shall demonstrate to the board that he or she has received instruction in human sexuality equivalent to that required in Section 2192 within six months of licensure.

(c) The board may charge an additional fee to cover any additional costs incurred as the result of administrating the provisions of subdivision (b).

(d) Subdivisions (a), (b) and (c) of this section shall only become operative if (1) regulations are issued implementing the provisions of Chapter 1434, Statutes of 1976, (2) adequate courses of instruction in human sexuality are available to an applicant and (3) such courses can be completed by the applicant within six months of licensure.

CHAPTER 1303

An act to amend Sections 3352 and 3600 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101 (6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412, or who earned less than

one hundred dollars ($100) in wages from such employer during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412.

(i) Any person performing voluntary service for a private, nonprofit organization and who receives no compensation for such services other than meals or transportation or an allowance or reimbursement for meals and transportation; provided, however, that the organization is exempt from federal income tax under subsection (c) of Section 501 of the Internal Revenue Code, is participating at the time of the volunteer's injury in a program funded and sponsored pursuant to Title II of the Domestic Volunteer Service Act of 1973 (Public Law 93-113; 42 U.S.C. 4951, et seq.—National Older American Volunteer Programs), and has outstanding adequate liability, medical treatment, and disability insurance for its volunteers as required by federal law or regulations.

SEC. 2. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental

thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from such employer during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412.

(i) Any person performing voluntary service for a private, nonprofit organization which is exempt from federal income tax under subdivision (c) of Section 501 of the Internal Revenue Code, and who receives no compensation for such services other than meals, transportation, or reimbursement for incidental expenses.

SEC. 3. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms,

transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from such employer during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no compensation for such services other than meals, transportation, or reimbursement for incidental expenses.

SEC. 4. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms,

transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from such employer during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization which is exempt from federal income tax under subdivision (c) of Section 501 of the Internal Revenue Code, and who receives no compensation for such services other than meals, transportation, or reimbursement for incidental expenses.

SEC. 5. Section 3600 of the Labor Code is amended to read:

3600. Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as provided in Section 3706, shall, without regard to negligence, exist against an employer for any injury sustained by his employees arising out of and in the course of the employment and for the death of any employee if the injury proximately causes death, in those cases where the following conditions of compensation concur:

(a) Where, at the time of the injury, both the employer and the employee are subject to the compensation provisions of this division.

(b) Where, at the time of the injury, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment.

(c) Where the injury is proximately caused by the employment, either with or without negligence.

(d) Where the injury is not caused by the intoxication of the injured employee.

(e) Where the injury is not intentionally self-inflicted.

(f) Where the employee has not willfully and deliberately caused his own death.

(g) Where the injury does not arise out of an altercation in which the injured employee is the initial physical aggressor.

(h) Where the injury does not arise out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting part of the employee's work-related duties, except where such activities are a reasonable expectancy of, or are expressly or impliedly required by, the employment. The administrative director shall promulgate reasonable rules and regulations requiring

employers to post and keep posted in a conspicuous place or places a notice advising employees of the provisions of this subdivision. Failure of the employer to post such a notice shall not constitute an expression of intent to waive the provisions of this subdivision.

SEC. 6. It is the intent of the Legislature that if this bill and Senate Bill No. 1468 or Assembly Bill No. 3115, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 3352 of the Labor Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1468 are both chaptered and become effective January 1, 1979, both bills amend Section 3352 of the Labor Code, but Assembly Bill No. 3115 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1468, the amendments proposed by both bills shall be given effect and incorporated in Section 3352 in the form set in Section 2 of this act. Therefore, if this bill and Senate Bill No. 1468 are both chaptered and become effective January 1, 1979, both bills amend Section 3352, this bill is chaptered after Senate Bill No. 1468, and Assembly Bill No. 3115 is not chaptered or as chaptered does not amend that section, Section 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 3115 are both chaptered and become effective January 1, 1979, both bills amend Section 3352 of the Labor Code, but Senate Bill No. 1468 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3115, the amendments proposed by both bills shall be given effect and incorporated in Section 3352 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill No. 3115 are both chaptered and become effective January 1, 1979, both bills amend Section 3352, this bill is chaptered after Assembly Bill No. 3115, and Senate Bill No. 1468 is not chaptered or as chaptered does not amend that section, Section 3 shall be operative and Sections 1, 2, and 4 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1468 and Assembly Bill No. 3115 are all chaptered and become effective January 1, 1979, all three bills amend Section 3352 of the Labor Code, and this bill is chaptered after Senate Bill No. 1468 and Assembly Bill No. 3115, the amendments proposed by all three bills shall be given effect and incorporated in Section 3352 in the form set forth in Section 4 of this act. Therefore, if this bill and Senate Bill No. 1468 and Assembly Bill No. 3115 are all chaptered and become effective January 1, 1979, all three bills amend Section 3352 of the Labor Code, and this bill is chaptered after Senate Bill No. 1468 and Assembly Bill No. 3115, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 1304

An act to amend Section 4507 of the Business and Professions Code, relating to licensed professionals.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 4507 of the Business and Professions Code is amended to read:

4507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3.

(f) Marriage, family, and child counselors licensed pursuant to Chapter 4 (commencing with Section 17800) of Division 7.

(g) Teachers credentialed pursuant to Chapter 1.5 (commencing with Section 13101) of Division 10 of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Such other categories of persons as the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California Administrative Code to be adequately trained in their respective occupations.

CHAPTER 1305

An act to amend Section 359 of the Code of Civil Procedure, to amend Sections 201, 1502, 1505, 10400, 12205, 12206 and 14080 of, to amend and renumber the headings of Part 2 (commencing with Section 10000) and Part 4 (commencing with Section 10400) of, and to add Part 7 (commencing with Section 10200), Part 8 (commencing with Section 10250) Part 10 (commencing with Section 10700), and Part 11 (commencing with Section 10810) to Division 2 of, and Part 1 (commencing with Section 12000) to Division 3 of Title 1 of, and to repeal Part 3 (commencing with Section 10200) of, Part 3.5 (commencing with Section 10250) of, and

Part 5 (commencing with Section 10700) of, Division 2 of, and Part 1 (commencing with Section 12000) of Division 3 of, Title 1 of, the Corporations Code, to amend Sections 39315, 39363.5, 44041, 81345, 81363.5, 87040, 94308, 94406 and 94407 of, to add Chapter 10 (commencing with Section 19800) to Part 11 of Division 1 of Title 1 of, and to repeal Chapter 10 (commencing with Section 19800) of Part 11 of Division 1 of Title 1 of, the Education Code, to amend Sections 12100 and 18475 of the Financial Code, to amend Sections 12210, 12210.5 and 50568 of, and to add Section 12203.7 to, the Government Code, to amend Sections 436.2 and 35131 of, and to repeal Chapter 6 (commencing with Section 8800) of Part 3 of Division 8 of, the Health and Safety Code, to amend Section 11496 of the Insurance Code, to amend Section 25936 of the Revenue and Taxation Code, to amend Section 1116 of the Unemployment Insurance Code, to amend Section 9870 of the Vehicle Code, and to amend Section 16 of Chapter 682 of the Statutes of 1975, relating to corporations.

[Approved by Governor September 27, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 359 of the Code of Civil Procedure is amended to read:

359. This title does not affect actions against directors, shareholders, or members of a corporation, to recover a penalty or forfeiture imposed, or to enforce a liability created by law; but such actions must be brought within three years after the discovery by the aggrieved party of the facts upon which the penalty or forfeiture attached, or the liability was created.

SEC. 2. Section 201 of the Corporations Code is amended to read:

201. (a) The Secretary of State shall not file articles setting forth a name in which "bank", "trust", "trustee" or related words appear, unless the certificate of approval of the Superintendent of Banks is attached thereto. This subdivision does not apply to the articles of any corporation subject to the Banking Law on which is endorsed the approval of the Superintendent of Banks.

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110 or subdivision (c) of Section 5008, or a name which is under reservation for another

corporation pursuant to this section, Section 5122, Section 7122, or Section 9122, except that a corporation may adopt a name that is substantially the same as an existing domestic corporation or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such domestic or foreign corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(c) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person, partnership, firm or corporation; nor shall consecutive reservations be made by or for the use or benefit of the same person, partnership, firm or corporation of names so similar as to fall within the prohibitions of subdivision (b).

SEC. 3. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its incumbent directors; (2) the number of vacancies on the board, if any; (3) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (4) the street address of its principal executive office; (5) if the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any; and (6) a statement of the general type of business which constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or a domestic or foreign corporation which has complied with Section 1505 or 6213 or 8213 or Section 6213 as made applicable pursuant to Section 9660 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original

articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 4. Section 1505 of the Corporations Code is amended to read:

1505. (a) Any domestic or foreign corporation, before it may be designated as the agent for the purpose of service of process of any domestic or foreign corporation pursuant to Section 1502 or 2105 or 2107 or 6210 or 8210 or Section 6210 as made applicable pursuant to Section 9660 shall file a certificate executed in the name of the corporation by an officer thereof stating:

(1) The complete address of its office or offices in this state, wherein any corporation designating it as such agent may be served with process.

(2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process.

(3) Its consent that delivery thereof to any such person at the office where such person is employed shall constitute delivery of any such copy to it, as such agent.

(b) Any corporation which has filed the certificate provided for in subdivision (a) may file any number of supplemental certificates containing all the statements provided for in subdivision (a), which, upon the filing thereof, shall supersede the statements contained in the original or in any supplemental certificate previously filed.

(c) No domestic or foreign corporation may file a certificate pursuant to this section unless it is currently authorized to engage in business in this state and is in good standing on the records of the Secretary of State.

SEC. 5. The heading of Part 2 (commencing with Section 10000) of Division 2 of Title 1 of the Corporations Code is amended and renumbered to read:

PART 6. CORPORATIONS SOLE

SEC. 6. Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code is repealed.

SEC. 7. Part 7 (commencing with Section 10200) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 7. CORPORATIONS FOR CHARITABLE OR ELEEMOSYNARY PURPOSES

10200. Every corporation organized or existing under Part 3 (commencing with Section 10200) of Division 2 in effect on December 31, 1979, is subject to and deemed to be a nonprofit public benefit corporation organized for charitable purposes under Part 2 (commencing with Section 5110) of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of this title).

SEC. 8. Part 3.5 (commencing with Section 10250) of Division 2 of Title 1 of the Corporations Code is repealed.

SEC. 9. Part 8 (commencing with Section 10250) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 8. TRUST FUNDS

10250. (a) Any corporation organized under the provisions of or for the purposes set forth in Part 6 (commencing with Section 10000) of this division or organized on or prior to December 31, 1979, under the provisions of or for purposes set forth in Part 3 (commencing with Section 10200) of this division, then in effect, or organized after December 31, 1979 for charitable or eleemosynary purposes under Part 2 (commencing with Section 5110) of this division, may, if authorized so to do by its articles of incorporation, establish one or more common trust funds for the purpose of furnishing investments to such corporation or to any church, parish, congregation, society, chapel, mission, religious, beneficial, charitable or educational institution affiliated with it, or to any organization, society or corporation holding funds or property for the benefit of any of the foregoing, or holding funds for the purpose of supporting a bishop, priest, religious pastor, or teacher or any building or buildings used by or owned by any of the foregoing, whether holding such funds or property as fiduciary or otherwise. Notwithstanding the provisions of any general or special law in any way limiting the right of any of the foregoing or the officers or directors thereof, as fiduciary or otherwise, to invest funds held by them, it shall be lawful for any of the foregoing to invest any or all of their funds or property in shares or interests of such common trust fund or trust funds; provided, that,

in the case of funds or property held as fiduciary, such investment is not prohibited by the wording of the will, deed or other instrument creating such fiduciary relationship.

(b) The directors or trustees of any such common trust fund, or trust funds, so organized, may employ such officers or agents as they think best, define their duties, and fix their compensation. They may also appoint a trust company or bank as custodian of the trust estate and may employ an investment adviser or advisers, define their duties, and fix their compensation. Securities which constitute part or all of the trust estate may be deposited in a securities depository, as defined in Section 30004 of the Financial Code, which is licensed under Section 30200 of the Financial Code or exempted from licensing thereunder by Section 30005 or 30006 of the Financial Code, and such securities may be held by such securities depository in the manner authorized by Section 775 of the Financial Code.

(c) The directors or trustees of any such common trust fund, or trust funds, shall pay ratably among the holders of shares or beneficial certificates then outstanding, semiannual dividends which shall approximately equal, in each fiscal year, the net income of the trust, or trusts.

(d) The provisions of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4) shall not apply to the creation, administration, or termination of common trust funds created hereunder, nor to participation therein.

10251. (a) "Educational institution," as used in this section, means any nonprofit corporation organized under the provisions of Chapter 3 (commencing with Section 94300) or Chapter 4 (commencing with Section 94400) of Part 59 of Division 10 of the Education Code or organized under the provisions of Part 1 (commencing with Section 9000) of this division in effect on December 31, 1979, and designated on or after January 1, 1980, as a nonprofit public benefit corporation, or organized for charitable or eleemosynary purposes under the provisions of Part 2 (commencing with Section 5110) of this division, or Part 3 (commencing with Section 10200) of this division in effect on December 31, 1979, and designated on or after January 1, 1980, as a nonprofit public benefit corporation for the purpose of establishing, conducting or maintaining an institution offering courses beyond high school and issuing or conferring a diploma or for the purpose of offering or conducting private school instruction on the high school or elementary school level and any charitable trust organized for such purpose or purposes. "Educational institution," as used in this section, also means the University of California, the state colleges, the state community colleges and any auxiliary organization, as defined in Section 89901 of the Education Code, established for the purpose of receiving gifts, property and funds to be used for the benefit of a state college.

(b) It shall be lawful for any educational institution to become a member of a nonprofit corporation incorporated under the laws of

any state for the purpose of maintaining a common trust fund or similar common fund in which nonprofit organizations may commingle their funds and property for investment and to invest any and all of its funds, whenever and however acquired, in such common fund or funds; provided, that, in the case of funds or property held as fiduciary, such investment is not prohibited by the wording of the will, deed or other instrument creating such fiduciary relationship.

(c) An educational institution electing to invest in a common fund or funds under the provisions of this section may elect to receive distributions from each such fund in an amount not to exceed for each fiscal year the greater of the income, as defined in Section 730.03 of the Civil Code, accrued on its interest in such fund or 10 percent of the value of its interest in such fund as of the last day of its next preceding fiscal year. The educational institution may expend such distribution or distributions for any lawful purpose notwithstanding the provisions of any general or special law characterizing such distribution, or any part thereof, as principal or income; provided, that, in the case of funds or property invested as fiduciary, such expenditure is not prohibited by the wording of the will, deed or other instrument creating such fiduciary relationship. No such prohibition of expenditure shall be deemed to exist solely because a will, deed or other such instrument, whether executed or in effect before or after the effective date of this section, directs or authorizes the use of only the "income," or "interest," or "dividends" or "rents, issues or profits," or contains words of similar import.

(d) The provisions of the Corporate Securities Law of 1968 shall not apply to the creation, administration or termination of common trust funds authorized under this section, or to participation therein.

SEC. 10. The heading of Part 4 (commencing with Section 10400) of Division 2 of Title 1 of the Corporations Code is amended and renumbered to read:

PART 9. SOCIETIES FOR PREVENTION OF CRUELTY TO CHILDREN AND ANIMALS

SEC. 11. Section 10400 of the Corporations Code is amended to read:

10400. Corporations for the prevention of cruelty to children or animals, or both, may be formed under the Nonprofit Public Benefit Corporation Law, Part 2 (commencing with Section 5110) of this division by 20 or more persons, who shall be citizens and residents of this state.

SEC. 12. Part 5 (commencing with Section 10700) of Division 2 of Title 1 of the Corporations Code is repealed.

SEC. 13. Part 10 (commencing with Section 10700) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 10. PORT AND TERMINAL PROTECTION AND DEVELOPMENT CORPORATIONS

10700. As used in this part, "public agency" includes every port district, river port district, municipal port district, harbor district, harbor improvement district, joint harbor improvement district, Board of State Harbor Commissioners, board of harbor commissioners, city, county, and city and county in this state.

10701. Every public agency owning or operating any port or marine terminal and every public agency organized for such purposes may associate itself with other public agencies, private corporations or individuals owning or operating, or organized for the purpose of owning or operating, ports or marine terminals located on the same harbor, bay, or other waterway or on communicating or related waterways, of this state and with other public agencies and with private corporations and individuals, or any of them, in the formation under the Nonprofit Mutual Benefit Corporation Law, Part 3 (commencing with Section 7110) of this division, and may become and remain a member of a nonprofit corporation organized under the Nonprofit Mutual Benefit Corporation Law for the purpose of, or the principal powers and purposes of which include carrying on a program of nonregulatory activities in the common interests of its members, including but not limited to any or all of the following activities: studies and research into traffic conditions, cargo volume, rate structures, cost factors, commercial transportation practices, and similar fields; the acquisition and dissemination of information relative to the said and similar subjects; the representation of the common interests of its members before federal, state, and local legislative and administrative authorities; and service as a facility for the cooperation of its members and the coordination of their activities toward the maintenance and improvement of the commercial welfare and competitive position of the ports and terminals owned or operated by its members, the maintenance of equitable and nondiscriminatory rate structures, and the elimination of inequitable, unfair, or discriminatory trade practices adversely affecting the interests of its members; and the undertaking or coordination of any other program of related activities or in related fields for the mutual benefit of its members as may be desired by the membership. Every such public agency may pay the dues and assessments required of its members by such nonprofit mutual benefit corporation out of any funds available to it for that purpose or for its support; may make contracts; may enter into agreements; may appoint an individual as its representative to such nonprofit mutual benefit corporation to exercise the voting power of such public agency and to act in its behalf with respect to such nonprofit mutual benefit corporation; and may do or perform all acts necessary and proper to carry out the purposes of this part; but no public agency shall become or remain a member of any such nonprofit mutual benefit corporation unless the articles of

incorporation or the bylaws of the nonprofit mutual benefit corporation include at all times a provision limiting the liability of members to assessments to a specified or ascertainable amount.

10702. For the purposes of this part, of the Nonprofit Mutual Benefit Corporation Law, and of the General Corporation Law of this state, every public agency and private corporation qualifying under this part shall be deemed to be a "person" and shall have the legal capacity to act as incorporator and as member of any nonprofit mutual benefit corporation formed under the provisions of this part.

10703. If, when, and during such times as public agencies or individuals duly authorized to represent them and act in their behalf constitute a majority of the incorporators or of the directors and are entitled to exercise a majority of the voting power of a nonprofit mutual benefit corporation pursuant to this part:

(a) The Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4) shall not apply to memberships nor to membership certificates issued by the corporation; and

(b) The corporation shall be exempt from payment of any taxes under the Bank and Corporation Tax Law (Part 11 of Division 2 of the Revenue and Taxation Code), except as provided in Article 2 of Chapter 4 thereof.

SEC. 14. Part 11 (commencing with Section 10810) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 11. NONPROFIT MEDICAL OR LEGAL SERVICES CORPORATIONS

Article 1. Nonprofit Corporations for Medical Services

10810. A nonprofit corporation may be formed under Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of this division for the purposes of defraying or assuming the cost of professional services of licentiates under any chapter of Division 2 (commencing with Section 500) of the Business and Professions Code or of rendering any such services, but it may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

(a) At least one-fourth of all licentiates of the particular profession residing in California become members.

(b) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed members of the particular profession.

(c) Voting by proxy and cumulative voting are prohibited.

(d) A certificate is issued to the corporation by the particular professional board whose licentiates have become members, finding compliance with the requirements of subdivisions (a), (b), and (c).

Any such corporation shall be subject to supervision by the particular professional board under which its members are licensed and shall also be subject to the part under which it is formed, either

Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of this division, except as to matters specifically otherwise provided for in this article.

10811. Any nonprofit corporation described in Section 10810 which defrays or assumes some portion or all of the costs of refractions or eye appliances shall offer an equal opportunity to render professional services upon a uniform basis to all licentiates expressly authorized by law to render such services.

10812. The provisions of Sections 10810 and 10811 of this article apply to corporations formed on or after January 1, 1980, under Part 2 or Part 3 of this division and pursuant to this article and to corporations existing on December 31, 1979, and formed under Section 9201 or 9201.1 of the Corporations Code then in effect.

Article 2. Nonprofit Health Care Service Plans

10820. (a) "Health care service plan," as used in this section means a corporation which is a health care service plan defined in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), other than a corporation which is exempted from that act by subdivision (d) of Section 1343 of the Health and Safety Code.

(b) A health care service plan may be formed under or subject to Part 2 (commencing with Section 5110) of this division or Part 3 (commencing with Section 7110) of this division.

(c) Notwithstanding any other provision of this article, a health care service plan which is formed under or subject to Part 2 (commencing with Section 5110) of this division shall not be subject to Sections 5142, 5223, 5226, 5233, 5250, or 5820 but shall instead be governed as to such matters by Sections 10821 through 10826, inclusive, of this article.

10821. (a) Notwithstanding Section 5141, any of the following may bring an action to enjoin, correct, obtain damages for, or to otherwise remedy a breach of a charitable trust:

(1) The corporation, or a member in the name of the corporation pursuant to Section 5710.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in trust assets.

(5) The Commissioner of Corporations.

The Attorney General shall be given notice of any action brought by the persons specified in paragraphs (1) through (5), and may intervene.

(b) In an action under this section, the court may rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are not parties to the action;

(2) A party to the contract without actual notice of the trust restriction has, in good faith, parted with value, under the contract

or in reliance upon it; or

(3) It is not equitable to do so.

10822. (a) The superior court of the proper county may, at the suit of a director, or twice the authorized number (Section 5036) of members, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation or breach of any duty arising under Article 3 (commencing with Section 5230) of Chapter 2 of Part 2 of this division, and may bar from reelection any director so removed for a period prescribed by the court. The corporation shall be made a party to such action.

(b) The Commissioner of Corporations may bring an action under subdivision (a), may intervene in such an action brought by any other party and shall be given notice of any such action brought by any other party.

10823. Except upon notice to the Commissioner of Corporations, no director may resign where the corporation would then be left without a duly elected director or directors in charge of its affairs.

10824. (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction:

(1) To which the corporation is a party and in which one or more directors has a material financial interest; or

(2) Between a corporation and one or more of its directors or between a corporation and any person in which one or more of its directors has a material financial interest.

Such director or person is an "interested person" for the purpose of subdivision (f).

(b) A mere common directorship does not constitute a material financial interest within the meaning of subdivision (a). A resolution of the board fixing the compensation of directors or officers of the corporation is not governed by this section.

(c) The Commissioner of Corporations, or if the Commissioner of Corporations is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710;

(2) A director of the corporation; or

(3) An officer of the corporation;

(4) Notice of such action shall be given to the Attorney General who may intervene.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Commissioner of Corporations or the court in an action in which the Attorney General is an indispensable party has approved the transaction before or after it was consummated; or

(2) The person asserting the validity of the transaction sustains the burden of proving that:

(A) The corporation entered into the transaction for its own

benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Any other provision of this part notwithstanding, no action by a committee of the board shall satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Commissioner of Corporations pursuant to regulations adopted by the Commissioner of Corporations or if no such notice is filed, 10 years after the cause of action has accrued.

(f) The fact that a transaction is a self-dealing transaction not approved as provided in paragraph (1) or (2) of subdivision (d) may be raised as a defense to any action brought for breach of any obligation of the corporation owed to an interested person arising from a self-dealing transaction, notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) Except as provided in subdivision (i), a director who engaged in a self-dealing transaction which has not been approved as provided in paragraph (1) or (2) of subdivision (d) shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the

corporation together with interest at the legal rate.

In exercising its discretion the court shall take into account any benefit received by the corporation in the self-dealing transaction and may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

(i) Anything in Section 5231 notwithstanding, a director who in good faith and with intent to further the best interests of the corporation engages in a self-dealing transaction not approved as provided in paragraph (1) or (2) of subdivision (d) shall be liable only to compensate the corporation for any loss it has suffered thereby.

10825. A corporation is subject at all times to examination by the Commissioner of Corporations, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, it fails to comply with trusts which it has assumed or has departed from the purposes for which it is formed. In case of any such failure or departure the Commissioner of Corporations shall institute, in the name of the state, the proceeding necessary to correct the noncompliance or departure.

Notice of such action shall be given to the Attorney General who may intervene.

10826. (a) Amendment of the articles of a corporation, pursuant to Chapter 8 (commencing with Section 5810) of Part 2 of this division does not, of itself, abrogate any requirement or limitation imposed upon the corporation, or any property held by it, by virtue of the trust under which such property is held by the corporation.

(b) The Commissioner of Corporations may, at the corporation's request, and pursuant to such regulations as the Commissioner of Corporations may issue, give rulings as to whether the Commissioner of Corporations will or may oppose a proposed action or article amendment, as inconsistent with or proscribed by the requirements of a charitable trust.

Article 3. Nonprofit Corporation to Administer System of Defraying Cost of Professional Services of Attorneys

10830. A nonprofit corporation may be formed under Part 3 (commencing with Section 7110) of this division for the purposes of administering a system or systems of defraying the cost of professional services of attorneys, but any such corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

(a) The attorneys furnishing professional services pursuant to such system or systems are acting in compliance with the Rules of Professional Conduct of the State Bar of California concerning such system or systems.

(b) Membership in the corporation and an opportunity to render

professional services upon a uniform basis are available to all active members of the State Bar.

(c) Voting by proxy and cumulative voting are prohibited.

(d) A certificate is issued to the corporation by the State Bar of California, finding compliance with the requirements of subdivisions (a), (b) and (c).

Any such corporation shall be subject to supervision by the State Bar of California and shall also be subject to Part 3 (commencing with Section 7110) of this division except as to matters specifically otherwise provided for in this article.

10831. The provisions of this article apply to corporations formed on or after January 1, 1980, under Part 3 of this division and pursuant to this article and to corporations existing on December 31, 1979, and formed under Section 9201.2 of the Corporations Code then in effect.

SEC. 15. Part 1 (commencing with Section 12000) of Division 3 of Title 1 of the Corporations Code is repealed.

SEC. 16. Part 1 (commencing with Section 12000) is added to Division 3 of Title 1 of the Corporations Code, to read:

PART 1. CHAMBERS OF COMMERCE, BOARDS OF TRADE, MECHANICS' INSTITUTES, ETC.

12000. Every corporation organized or existing under Part 1 (commencing with Section 12000) in effect on December 31, 1979, is subject to and deemed to be organized under:

(a) The General Corporation Law (Division 1 (commencing with Section 100) of this title), if the corporation is organized with capital stock.

(b) The Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of this title) if the corporation is organized without capital stock.

SEC. 17. Section 12205 of the Corporations Code is amended to read:

12205. The provisions of the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000) of Division 2) in effect on December 31, 1979, apply to cooperative corporations formed under this part, except where such provisions are in conflict with those of this part. Corporations formed under this part have and enjoy all rights, powers, and privileges granted generally to corporations by the laws of this state, except as may be inconsistent with the provisions of this part.

SEC. 18. Section 12206 of the Corporations Code is amended to read:

12206. (a) Any corporation organized under any other law of this state may bring itself under the provisions of this part by amending its articles of incorporation in the manner prescribed by the General Corporation Law to conform to the provisions of this part. Whenever any corporation has amended its articles of incorporation to conform to the provisions of this part, it shall be deemed to be then organized

and existing under, and entitled to the benefit of, and subject to the provisions of, this part for all purposes as fully as though originally organized under this part.

(b) Nonprofit cooperative corporations organized pursuant to Title 22 (commencing with Section 653t) of Part 4 of Division 1 of the Civil Code prior to August 14, 1931, which have not elected pursuant to subdivision (a) to be governed by this part, are governed by the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000) of Division 2 of this title) as in effect on December 31, 1979.

SEC. 19. Section 14080 of the Corporations Code is amended to read:

14080. The provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of this title) apply to corporations formed under this chapter, except as to matters otherwise provided for in this chapter.

SEC. 20. Chapter 10 (commencing with Section 19800) of Part 11 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 21. Chapter 10 (commencing with Section 19800) is added to Part 11 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 10. CORPORATIONS TO ADMINISTER LIBRARIES

19800. Every corporation organized or existing under Chapter 10 (commencing with Section 19800) in effect on December 31, 1979, is subject to and deemed to be organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

SEC. 22. Section 39315 of the Education Code is amended to read:

39315. As an alternative to obtaining sealed proposals as required by Sections 39306 and 39314, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) if the articles of incorporation or bylaws of the nonprofit public benefit corporation provide: (1) that no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the school district, and (2) that no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing

board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

Any building constructed by a nonprofit public benefit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code. Section 39321 of this code shall apply to such contract.

SEC. 23. Section 39363.5 of the Education Code is amended to read:

39363.5. Except as provided for in Article 2 (commencing with Section 39030) of Chapter 1 of this part, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the state, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized on or after January 1, 1980, for charitable or eleemosynary purposes under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by

paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Third, the property shall be made available in writing to the former owner, in accordance with Section 39369.5.

(d) Fourth, the property may be disposed of in any other manner authorized by law.

SEC. 24. Section 44041 of the Education Code is amended to read:

44041. The governing board of each school district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes: participating in a deferred compensation program offered by the school district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the Constitution, or paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner, or paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his dependents, issued by a nonprofit corporation subject to Part 2 (commencing with Section 5110) of, Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code, or paying periodic charges on any legal services contract for the benefit of the employee, or his dependents issued by a nonprofit corporation subject to Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code. The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the

nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his authorization for the deduction up to one month in advance of the effective date of coverage.

"Group insurance" as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the school district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

SEC. 25. Section 81345 of the Education Code is amended to read:

81345. As an alternative to obtaining sealed proposals as required by Sections 81336 and 81344, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit corporation organized under Part 2 (commencing with Section 5110) of, or Part 3 (commencing with Section 7110) of, Division 2 of Title 1 of the Corporations Code if the articles of incorporation or bylaws of the nonprofit corporation provide: (1) that no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the community college district, and (2) that no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the district. The resolution shall describe, in such manner as to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if such is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the community college district will lease the building, or building and site, as the case may be.

Any building constructed by a nonprofit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code. Section 81350 of this code shall apply to such contract.

SEC. 26. Section 81363.5 of the Education Code is amended to read:

81363.5. Except as provided for in Article 9 (commencing with Section 81190) of Chapter 1 of this part, the sale or lease with an

option to purchase of real property by a community college district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which such article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value;

(1) In writing, to the state, the Regents of the University of California, the Trustees of the California State University and Colleges, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated; and

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized for charitable purposes on or after January 1, 1980, under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The written notice required by paragraph (1) of this subdivision shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the community college district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may, in its discretion, determine which of such offers to accept.

(c) Fourth, the property may be disposed of in any other manner authorized by law.

SEC. 27. Section 87040 of the Education Code is amended to read:

87040. The governing board of each community college district when drawing an order for the salary payment due to employees of the district shall, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for any or all of the following purposes: participating in a deferred compensation program offered by the district which provides for investments in corporate stocks, bonds, securities, mutual funds, or annuities, except as prohibited by the Constitution, or paying premiums on any policy or certificate of group life insurance for the benefit of the employee or for group disability insurance, or legal expense insurance, or any of them, for the benefit of the employee or his dependents issued by an admitted insurer on a form of policy or certificate approved by the Insurance Commissioner, or paying rates, dues, fees, or other periodic charges on any hospital service contract for the benefit of the employee, or his dependents, issued by a nonprofit hospital service corporation on a form approved by the Insurance Commissioner pursuant to the provisions of Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or paying periodic charges on any medical and hospital service agreement or contract for the benefit of the employee, or his dependents, issued by a nonprofit corporation subject to Part 2 (commencing with Section 5110) of, Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code, or paying periodic charges on any legal services contract for the benefit of the employee, or his dependents issued by a nonprofit corporation subject to Part 3 (commencing with Section 7110) of, or Part 11 (commencing with Section 10810) of, Division 2 of Title 1 of the Corporations Code. The governing board of the district shall, beginning with the month designated by the employee and each month thereafter until authorization for the deduction is revoked, draw its order upon the funds of the district in favor of the insurer which has issued the policies or certificates or in favor of the nonprofit hospital service corporation which has issued hospital service contracts, or in favor of the nonprofit corporation which has issued medical and hospital service or legal service agreements or contracts, for an amount equal to the total of the respective deductions therefor made during the month. The governing board may require that the employee submit his authorization for the deduction up to one month in advance of the effective date of coverage.

"Group insurance" as used in this section shall mean only a bona fide group program of life or disability or life and disability insurance where a master contract is held by the community college district or an employee organization but it shall, nevertheless, include annuity programs authorized by Section 403(b) of the Internal Revenue Code when approved by the governing board.

SEC. 28. Section 94308 of the Education Code is amended to read:

94308. (a) If a corporation formed pursuant to this article is to be

authorized to issue shares of stock, the articles of incorporation shall state the total number of shares which the corporation shall have authority to issue and (1) the aggregate par value, of any, of all shares, and the par value of each of the shares, or (2) a statement that all the shares are to be without par value and except as herein provided shall be treated for all purposes as being incorporated pursuant to Division 1 (commencing with Section 300) of Title 1 of the Corporations Code.

(b) If a corporation formed pursuant to this article is to be authorized as a nonprofit public benefit corporation without authority to issue shares of stock, the articles of incorporation shall so state and, except as herein provided, such corporation shall be treated for all purposes as being incorporated pursuant to, and be subject to, the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) and shall have the general powers granted by Section 10206 of the Corporations Code.

SEC. 29. Section 94406 of the Education Code is amended to read:

94406. Bylaws may be adopted and amended by the trustees except as otherwise provided in the articles or the bylaws. The bylaws may set forth the particular officers or persons in the grand lodge, conference, assembly, or other legislative or representative head entitled to vote as members of the corporation, and also the manner and method by which the voting is had. The bylaws may limit or restrict the power of the trustees to adopt, amend, or repeal bylaws. After the limitation or restriction is made it shall be complied with unless it is removed with the consent of the officers or persons entitled to vote as members. Where applicable the provisions of Articles 5 and 6 (commencing with Sections 5150 and 5160) of Chapter 2 of Part 2 of Division 2 of Title 1 of the Corporations Code apply to the bylaws.

SEC. 30. Section 94407 of the Education Code is amended to read:

94407. Except as otherwise provided in Section 94406, in the articles of incorporation, or the bylaws, the board of trustees of the new corporation have all of the powers granted to boards of directors by and enumerated in Article 1 (commencing with Section 5210) of Chapter 2 of Part 2 of Division 2 of Title 1 of the Corporations Code.

SEC. 31. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or California small loan companies.

(b) Persons or their authorized agents engaged in the business of paying to others bills, invoices, or accounts of an obligor, or of selling or cashing checks, including travelers' checks, drafts, or money orders issued by a person who has been licensed under and complied with, and continues to be licensed under and complies with, Article 3 of Chapter 14 of Division 1 of this code.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or a member-controlled or -directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditors' committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers or employees organizations, and related groups, if the principal functions of such organizations are. (1) consumer credit education; (2) counseling on

consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 5 percent of the money disbursed monthly, or ten dollars ($10) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

SEC. 31.5. Section 12100 of the Financial Code is amended to read:

12100. The provisions of this division do not apply to any of the following:

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or California small loan companies.

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person, when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or -directed association whose principal function is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of

the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher.

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers or employees organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 5 percent of the money disbursed monthly, or ten dollars ($10) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002

(k) Any person licensed under Article 3 (commencing with Section 1800) of Chapter 14 of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such

group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check.

(m) Any transaction of the type described in Section 1854.1.

SEC. 32. Section 18475 of the Financial Code is amended to read:

18475. "Guaranty corporation" means Thrift Guaranty Corporation of California which exists under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code).

SEC. 33. Section 12203.7 is added to the Government Code, to read:

12203.7. (a) The fee for filing a plan of conversion of a nonprofit mutual benefit corporation into a business corporation is sixty-five dollars ($65).

(b) The fee for filing a plan of conversion of a business corporation into a nonprofit mutual benefit corporation is fifteen dollars ($15).

SEC. 34. Section 12210 of the Government Code is amended to read:

12210. (a) The fee for filing the statement pursuant to Section 1502 of the Corporations Code is five dollars ($5).

(b) The fee for filing the statement pursuant to Section 6210, Section 8210, or Section 6210 as made applicable pursuant to Section 9660 of the Corporations Code is two dollars and fifty cents ($2.50).

SEC. 35. Section 12210.5 of the Government Code is amended to read:

12210.5. The fee for furnishing a copy of a statement filed pursuant to Section 1502, 6210, 8210, or Section 6210 as made applicable pursuant to Section 9660 of the Corporations Code or Section 3301 of the Corporations Code as in effect prior to January 1, 1977, is one dollar ($1).

SEC. 36. Section 50568 of the Government Code is amended to read:

50568. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Persons and families of low and moderate income" means persons and families financially eligible for admission to developments assisted by the Federal Department of Housing and Urban Development Section 235 and 236 programs.

(b) "Limited dividend housing corporation" means any joint venture, partnership, limited partnership, trust or corporation organized or existing under the laws of this state or authorized to do business in this state and subject to the restrictions of Division 24 of the Health and Safety Code.

(c) "Housing corporation" means a corporation organized pursuant to the Community Land Chest Law in Division 24 of the Health and Safety Code.

(d) "Nonprofit corporation" means a nonprofit public benefit corporation formed under or subject to the provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing

with Section 5110) of Division 2 of Title 1 of the Corporations Code) and whose articles of incorporation provide that the corporation has been organized exclusively to provide housing facilities for persons of low and moderate income.

SEC. 37. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, and initial or additional equipping of any such buildings. "Construction" also includes consulting, financing, architectural, and engineering costs and fees, cost of land acquisition and site development, including parking facilities, and all other costs necessary or incidental to construct a new building or to expand, modernize, renovate, remodel or alter an existing building.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Article XIII, Section 21.5 of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. Except for facilities for the developmentally disabled, "health facility" does not include any institution furnishing primarily domiciliary care.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the construction

costs of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, or local hospital district.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, the health facility, and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

SEC. 38. Chapter 6 (commencing with Section 8800) of Part 3 of Division 8 of the Health and Safety Code is repealed.

SEC. 39. Section 35131 of the Health and Safety Code is amended to read:

35131. The Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) applies to corporations formed under this chapter, except where inconsistent with the provisions of this chapter.

SEC. 40. Section 11496 of the Insurance Code is amended to read:

11496. Persons desiring to form a nonprofit hospital service corporation shall incorporate pursuant to the provisions of this chapter and the provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), or the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), so far as the provisions of the Nonprofit Corporation Law are applicable and not inconsistent with this chapter.

SEC. 41. Section 25936 of the Revenue and Taxation Code is amended to read:

25936. Upon certification by the Secretary of State pursuant to

subdivision (a) of Section 2204 of the Corporations Code, the Franchise Tax Board shall assess a penalty of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any such penalty shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC. 41.5. Section 25936 of the Revenue and Taxation Code is amended to read:

25936. Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 of the Corporations Code, the Franchise Tax Board shall assess a penalty of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any such penalty shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivisions (e) and (f) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC. 42. Section 1116 of the Unemployment Insurance Code is amended to read:

1116. (a) (1) Every employing unit except a domestic or foreign corporation shall, within 10 days of quitting business, file with the director a final return and report of wages of its workers, in such form and containing such information as the director prescribes.

(2) Every domestic corporation shall, within 10 days of quitting business or within 10 days of the commencement of proceedings to windup its affairs and voluntarily dissolve, whichever expires the earlier, file with the director a return and a report of wages of its workers, in such form and containing such information as the director prescribes.

(3) Every foreign corporation shall, within 10 days of quitting business or within 10 days of the surrender of its right to engage in business of this state in accordance with Section 2112 and subdivision (d) of Section 2114 of the Corporations Code, whichever expires the earlier, file with the director a final return and report of wages of its workers, in such form and containing such information as the director prescribes.

(4) As used in this section, "quitting business" does not include any

change in the form or membership of an employing unit if before and after such change 50 percent or more of the control of management is held by the same individual, or is held by an individual before death and after the individual's death by the individual's estate or heirs.

(b) Contributions with respect to a return required under subdivision (a) are due and payable on the first day of the applicable 10-day period established pursuant to subdivision (a) and shall become delinquent if not paid within 10 days of the due date.

(c) The director for good cause may extend for not to exceed 30 days the time for making a return or paying without penalty or interest any amount required to be paid under this section.

SEC. 43. Section 9870 of the Vehicle Code is amended to read:

9870. A nonprofit public benefit corporation governed by the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), which purposes relate to promoting the ability of boys and girls to do things for themselves, to train them in scoutcraft and camping, and to teach them patriotism, courage, self-reliance and kindred virtues, shall not be required to pay the fees provided for in Sections 9853, 9855, 9860, and 9867.

SEC. 44. Section 16 of Chapter 682 of the Statutes of 1975, as amended by Section 43.5 of Chapter 641 of the Statutes of 1976, is amended to read:

Sec. 16. (a) Section 119 of the Corporations Code as in effect on December 31, 1976, to the extent that it makes applicable the General Corporation Law to private corporations organized under other laws, shall continue in effect notwithstanding its repeal by the provisions of Chapter 682 of the Statutes of 1975; but it shall refer to the provisions of Division 1 (commencing with Section 100) of Title 1 of the Corporations Code as in effect on December 31, 1976, unless and until the provisions of any other statute permitting the incorporation of private corporations shall be amended to incorporate by reference in such other statute specific sections of portions of Division 1 (commencing with Section 100) of Title 1 of the Corporations Code as enacted by Chapter 682 of the Statutes of 1975. All references in any such other statute to any sections or portions of the General Corporation Law shall, until such amendment, continue to be references to Division 1 (commencing with Section 100) of Title 1 of the Corporations Code as in effect on December 31, 1976.

(b) Notwithstanding subdivision (a), subdivision (b) of Section 201 of the Corporations Code as in effect on January 1, 1977, and as subsequently amended, shall apply to all corporations.

(c) This section does not apply to corporations to which the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, or the Nonprofit Religious Corporation Law applies.

SEC. 45. If any provision of this act or the application thereof to

any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 46. This act becomes operative on January 1, 1980.

SEC. 47. This act shall become operative only if Assembly Bill No. 2180 is chaptered and becomes effective January 1, 1979, and in such case, shall become operative at the same time as Assembly Bill No. 2180.

SEC. 48. It is the intent of the Legislature, if this bill and Assembly Bill No. 2283 are both chaptered and become effective January 1, 1979, both bills amend Section 12100 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2283, that Section 12100 of the Financial Code, as amended by Section 6 of Assembly Bill No. 2283 be further amended on the operative date of this act in the form set forth in Section 31.5 of this act to incorporate the changes in Section 12100 proposed by this bill. Therefore, Section 31.5 of this act shall become operative only if this bill and Assembly Bill No. 2283 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 12100 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2283, in which case Section 31.5 of this act shall become operative on the operative date of this act and Section 31 of this act shall not become operative.

SEC. 48. It is the intent of the Legislature, if this bill and Senate Bill No. 1703 are both chaptered and become effective January 1, 1979, both bills amend Section 25936 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1703 that Section 25936 of the Revenue and Taxation Code, as amended by Section 2 of Senate Bill No. 1703 be further amended on the operative date of this act in the form set forth in Section 41.5 of this act to incorporate the changes in Section 25936 proposed by this bill. Therefore, Section 41.5 of this act shall become operative only if this bill and Senate Bill No. 1703 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 25936, and this bill is chaptered after Senate Bill No. 1703, in which case Section 41.5 of this act shall become operative on the operative date of this act and Section 41 of this act shall not become operative.

CHAPTER 1306

An act to amend the heading of Article 1 (commencing with Section 27000) of Chapter 5 of Division 12 of, and to add Section 27007 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The heading of Article 1 (commencing with Section 27000) of Chapter 5 of Division 12 of the Vehicle Code is amended to read:

Article 1. Horns, Sirens, and Amplification Devices

SEC. 2. Section 27007 is added to the Vehicle Code, to read:

27007. No driver of a vehicle shall operate or permit operation of any radio system intended to make sound audible outside the vehicle when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This section shall not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications, or water utilities. This section shall not apply to the radio systems of vehicles used for advertising, or in parades, political or other special events, except that use of radio systems on such vehicles may be prohibited by a local authority by ordinance or resolution.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes.

CHAPTER 1307

An act to add Section 527.6 to the Code of Civil Procedure, relating to harassment.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. The Legislature intends by this act to protect the individual's right to pursue safety, happiness and privacy as guaranteed by the California Constitution.

SEC. 2. Section 527.6 is added to the Code of Civil Procedure, to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which

seriously alarms, annoys or harasses such person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies or denies the alleged harassment. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting such harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The clerk shall transmit a copy of each temporary restraining order or injunction or modification or termination thereof, granted under this section, by the close of the business day on which such order was granted, to such law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency may make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or

injunction granted under this section shall be a misdemeanor pursuant to Section 166 of the Penal Code.

(j) This section shall not apply to any action covered by subdivision (b) of Section 527 of this code, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1308

An act to add Section 264.2 to the Penal Code, relating to rape.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 264.2 is added to the Penal Code, to read:

264.2. Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) or (3) of Section 261, or Section 264.1.

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

CHAPTER 1309

An act to add and repeal Chapter 9 (commencing with Section 18320) to Part 1 of Division 5 of Title 2 of the Government Code, relating to state employees.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Chapter 9 (commencing with Section 18320) is added to Part 1 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 9. RAPE PREVENTION PROGRAM

18320. The state shall provide a rape prevention program for the safety of its employees. The program shall be made available to all state employees and shall provide, on a timely basis, a comprehensive educational and training program, the objective of which is to eliminate or severely reduce the incidence of rape on public employees.

18321. The rape prevention program, to be administered by the Personnel Development Center, State Personnel Board, or by individual state agencies if they so desire, shall be from a list of rape prevention programs suggested by the Commission on the Status of Women and shall provide state employees with at least the following:

(a) An awareness of situations and conditions conducive to rape attempts;

(b) The ability to recognize signals indicating the possibility of a rape attempt;

(c) Training in basic self-defense methods designed to develop the necessary physical skills needed to be employed during a rape attempt.

The program shall be between two and three hours in length and shall be offered at least four times a year one hour before working hours, or one hour after working hours, or during the lunch hour, in such a manner and at such locations as to make the program available to each state employee on a one-time basis. No state employee shall attend a rape prevention program during working hours.

18322. In addition to the program established by this chapter, the Department of Motor Vehicles may continue to administer its own rape prevention program.

18323. The Legislative Analyst, in cooperation with the Department of General Services, shall, by January 1, 1980, report to the Legislature on participation in the program and results that can be attributed to the program.

18324. The provisions of this chapter shall remain in effect only until January 1, 1981, and as of such date are repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

CHAPTER 1310

An act to add Section 868.5 to the Penal Code, relating to witnesses.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 868.5 is added to the Penal Code, to read:

868.5. Notwithstanding any other provision of law, a prosecuting witness in a case involving a violation of Section 261, 286 or 288a shall be entitled for support to the attendance of one person of his or her own choosing, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness otherwise not a witness, and otherwise not a person described in Section 1070 of the Evidence Code unless such person who is described in Section 1070 of the Evidence Code is related to the prosecuting witness as a parent, child, or sibling and does not make notes during the hearing. At the request of the defendant or defendant's counsel, the court shall order the person so chosen not to communicate any or all of the testimony of the prosecuting witness to any person during or after the preliminary hearing and up to the conclusion of the trial. If the person so chosen attempts to influence or affect or influences or affects in any manner the testimony of the prosecuting witness during the giving of such testimony, the court shall exclude such person and allow the prosecuting witness to choose another person pursuant to this section. The defendant may move to exclude the person chosen for good cause, and the court shall hear the motion out of the presence of the jury, if any. If the court grants the motion the prosecuting witness may choose another person pursuant to this section. Nothing in this section shall affect the right to exclude witnesses as provided in Section 867.

CHAPTER 1311

An act relating to a study of convicted sexual offenders.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The State Department of Mental Health shall conduct a study to determine the number of convicted sexual offenders in state prisons who are receiving psychiatric counseling and shall evaluate the adequacy and value of such counseling.

For the purposes of this section, a sexual offender is a person who

has been convicted of a violation of Section 261, 286, or 288a of the Penal Code.

The State Department of Mental Health shall transmit a copy of the study to the Legislature no later than July 1, 1980.

The study shall be made by utilizing existing resources of the department, provided that to the extent federal funds are available, such funds shall be used in lieu of state budgeted funds.

CHAPTER 1312

An act to add Chapter 3.7 (commencing with Section 1598) to Division 2 of the Health and Safety Code, relating to rape victim counseling centers, and making an appropriation therefor.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Chapter 3.7 (commencing with Section 1598) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.7. LOCAL RAPE VICTIM COUNSELING CENTERS

1598. It is the intent of the Legislature in the enactment of this chapter to establish a grant program administered by the State Department of Social Services to provide support to existing local rape victim counseling centers and to encourage the establishment of such local centers.

1598.1. The State Department of Social Services shall provide grants to proposed and existing local rape victim counseling centers. Such centers shall maintain a 24-hour telephone counseling service for rape victims, appropriate in-person counseling and referred service during normal business hours, and maintain other standards or services which shall be determined to be appropriate by the administering agency as grant conditions. The administering agency shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources which may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

State funds provided to establish centers shall be utilized when possible, as determined by the administering agency, to expand the program and shall not be expended to reduce fiscal support from

other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the administering agency. In granting funds, the administering agency shall give priority to centers which are operated in close proximity to medical treatment facilities. No grant shall be made pursuant to this chapter which shall exceed up to one-half of the cost of operating a local rape victim counseling service during the first two years and up to one-third of the cost of operating a local rape victim counseling service thereafter.

1598.3. The State Department of Social Services shall report to the Legislature, on or before January 1, 1980, with respect to the names of the organizations receiving funds pursuant to this chapter and the purposes for which the funds have been utilized.

1598.5. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Department of Social Services for expenditure during the 1978–79 fiscal year. Only 5 percent of such funds shall be used for the state administration of the grant program. After the 1978–79 fiscal year, the grant program provided pursuant to Section 1598.1 shall be funded through the regular budgetary process. The funds shall be administered through the Violent Crime Victim Assistance Commission, if created.

CHAPTER 1313

An act to add Section 289 to the Penal Code, relating to crimes.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 289 is added to the Penal Code, to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device, by use of force, violence, duress, menace, or threat of great bodily harm, and against the will of the victim, for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, four, or five years.

(b) As used in this section, "foreign object, substance, instrument, or device" shall not include any part of the body.

CHAPTER 1314

An act to amend Sections 4809.6, 4853, and 4905 of, and to add Sections 4809.7, 4853.5, 4853.6, 4854, and 4855 to, the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 4809.6 of the Business and Professions Code is amended to read:

4809.6. The enforcement of Sections 4809.5 and 4854 of this chapter is a function exclusively reserved to the Board of Examiners in Veterinary Medicine and the state has preempted and occupied this field of enforcing the cleanliness and sanitary requirements of this chapter.

SEC. 2. Section 4809.7 is added to the Business and Professions Code, to read:

4809.7. The board shall establish a regular inspection program which will provide for random, unannounced inspections.

SEC. 3. Section 4853 of the Business and Professions Code is amended to read:

4853. All premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced shall be registered with the board. The certificate of registration shall be on a form prescribed in accordance with Section 164.

"Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the board when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the board, and such registration identifies and declares the use of such a mobile unit or vehicle.

Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the board providing the person substituted qualifies by presenting satisfactory evidence that he possesses a valid, unexpired, and unrevoked license as provided by this chapter and that such license is not currently under suspension, and providing further that no circumvention of the law is contemplated by such substitution.

SEC. 4. Section 4853.5 is added to the Business and Professions Code, to read:

4853.5. When it has been adjudicated in an administrative

hearing that the licensee manager has failed to keep the premises and all equipment therein in a clean and sanitary condition, or is in violation of any of the provisions of Section 4854, the board may withhold, suspend, or revoke the registration of veterinary premises, or assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) per day until such violation has been rectified, or by both such suspension and fine.

SEC. 5. Section 4853.6 is added to the Business and Professions Code, to read:

4853.6. The board shall withhold, suspend or revoke registration of veterinary premises:

(a) When the licensee manager set forth in the application in accordance with Section 4853 ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made by application as provided for in Section 4853.

(b) When the licensee manager has, under proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the license to practice veterinary medicine, surgery, and dentistry revoked or suspended.

SEC. 6. Section 4854 is added to the Business and Professions Code, to read:

4854. All premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced, and all instruments, apparatus and apparel used in connection with those practices, shall be kept clean and sanitary at all times, and shall conform to those minimum standards established by the board.

SEC. 7. Section 4855 is added to the Business and Professions Code, to read:

4855. A veterinarian subject to the provisions of this chapter shall, as required by regulation of the board, keep a written record of all animals receiving veterinary services, and provide a summary of that record to the owner of animals receiving veterinary services, when requested. The minimum amount of information which shall be included in written records and summaries shall be established by the board. The minimum duration of time for which a licensed premise shall retain the written record or a complete copy of the written record shall be determined by the board.

SEC. 8. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and the same shall be credited to the Board of Examiners in Veterinary Medicine Contingent Fund:

(a) The fee for filing an application for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed ninety dollars ($90) for the practical examination, and at not more than ninety dollars ($90) for the written

examination.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for each biennial renewal period in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred dollars ($100).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed fifty dollars ($50) annually.

SEC. 8.5. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and the same shall be credited to the Board of Examiners in Veterinary Medicine Contingent Fund:

(a) The fee for filing an application for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed ninety dollars ($90) for the practical examination, and at not more than ninety dollars ($90) for the written examination.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for each biennial renewal period in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred twenty-five dollars ($125).

(d) The delinquency fee shall not exceed twenty-five dollars

($25).

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed fifty dollars ($50) annually.

SEC. 9. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code. However, there may be state-mandated local costs resulting from executive orders based on this act in subsequent fiscal years. Such costs can be provided for in accordance with the provisions of Section 2231 of the Revenue and Taxation Code.

SEC. 10. It is the intent of the Legislature, if this bill and Senate Bill No. 1795 are both chaptered and both become effective January 1, 1979, both bills amend Section 4905 of the Business and Professions Code and this bill is chaptered after Senate Bill No. 1795, that the amendments to Section 4905 proposed by both bills be given effect and incorporated in Section 4905 in the form set forth in Section 8.5 of this act. Therefore, Section 8.5 of this act shall become operative only if this bill and Senate Bill No. 1795 are both chaptered and both become effective January 1, 1979, both amend Section 4905, and this bill is chaptered after Senate Bill No. 1795, in which case Section 8 of this act shall not become operative.

CHAPTER 1315

An act to amend Sections 1500, 1500.1, 1500.2, 1606.5, 1851, and 2006 of the Probate Code, relating to civil law.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 1500 of the Probate Code is amended to read:

1500. Every guardian has the care and custody of the person of his ward and the management of his estate, or the care and custody of the person of his ward or the management of his estate, according to the order of appointment, until legally discharged, or until his ward is restored to capacity pursuant to Chapter 5 (commencing with Section 1470) of this division, whichever shall occur first, or, in case of the guardianship of the person of a minor, until the minor reaches the age of majority or marries, or, as to the guardianship of his estate, until the ward attains his majority as provided in Section

25 of the Civil Code. The guardian of a minor also has charge of the education of the minor. The guardian of the person of a ward may fix the residence and domicile of the ward at any place in the state, but not elsewhere without the permission of the court.

No adult for whom a guardian of the person has been appointed shall be placed in a mental health treatment facility against his will. On or before July 1, 1979, the Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this division. Involuntary civil mental health treatment for an adult ward shall be obtained only pursuant to the provisions of Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section 5275), Article 6 (commencing with Section 5300), Article 7 (commencing with Section 5325), Article 8 (commencing with Section 5340), and Chapter 3 (commencing with Article 5350) of Division 5 of the Welfare and Institutions Code.

(a) A person who is not a ward shall not be presumed to be incompetent by virtue of his having been a ward under the provisions of this division.

(b) All petitions filed under this chapter shall be set for hearing within 30 days of the filing of such petitions.

(c) The guardian shall promptly advise the court issuing the letters of guardianship in writing of all changes in the residence and domicile of the ward.

SEC. 2. Section 1500.1 of the Probate Code is amended to read:

1500.1. Each guardianship of an adult initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the guardian and biennially thereafter. The court investigator shall visit the ward and personally inform the ward that he is under a guardianship and the name of his guardian. The investigator shall also determine whether the ward wishes to petition the court for restoration to capacity, whether the ward is still incompetent, and whether the present guardian is acting in the best interests of the ward.

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the ward wishes to petition the court for restoration to capacity or for removal of the existing guardian, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for restoration to capacity or removal of the existing guardian is in the best interests of the ward, the court shall notify the attorney of record for the ward,

if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If the court investigator is unable to locate the ward, the court shall serve notice upon the guardian to produce the ward within 15 days of the receipt of such notice or show cause why the guardianship should not be terminated. If the ward is not produced within the time prescribed and if no good cause is shown for not producing the ward, the court shall terminate the guardianship and order the guardian to file an accounting, if the guardianship is of the estate.

SEC. 3. Section 1500.2 of the Probate Code is amended to read:

1500.2. For all guardianships of adults established prior to the effective date of the amendments to this division adopted at the 1975–76 Regular Session of the Legislature, review pursuant to the terms of Section 1500.1 shall commence at the time of the next financial accounting, but in all cases within three years from the operative date of such amendments.

SEC. 4. Section 1606.5 of the Probate Code is amended to read:

1606.5. In any proceeding for the appointment of a guardian for the person and estate or person or estate of an alleged incompetent person or for restoration of his capacity under this division, the alleged or adjudicated incompetent person shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses, but is unable to retain legal counsel, the court shall, at the time of the hearing, appoint the public defender or other attorney to represent him.

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded. Demand for a court or jury trial shall be made within five days after the hearing on the guardianship petition. A court or jury trial shall commence within 10 judicial days of the date of demand, except that the court shall continue the trial date for a period not to exceed 15 judicial days upon the request of counsel for the proposed ward.

In any case in which the alleged or adjudicated incompetent person is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon conclusion of the hearing, the court shall make a determination of the present ability of the alleged or adjudicated incompetent person to pay all or a portion of the costs of such counsel. If the court determines that the alleged or adjudicated incompetent person has the present ability to pay all or a portion of the costs, it shall order him or the guardian of the estate to pay the sum, in the case of the public defender, or court-appointed counsel, to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a guardian is not appointed for the alleged incompetent person, execution may be issued on the order in the same manner as on a judgment in a civil action.

SEC. 5. Section 1851 of the Probate Code is amended to read:

1851. Every conservator of the person of a conservatee has the care, custody and control of the conservatee and may fix the residence and domicile of the conservatee at any place within this state, but not elsewhere without the permission of the court.

No person for whom a conservator of the person has been appointed shall be placed in a mental health treatment facility against his will. On or before July 1, 1979, the Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this division. Involuntary civil mental health treatment for a conservatee shall be obtained only pursuant to the provisions of Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 2 (commencing with Section 5200), Article 3 (commencing with Section 5225), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section 5275), Article 6 (commencing with Section 5300), Article 7 (commencing with Section 5325), Article 8 (commencing with Section 5340), and Chapter 3 (commencing with Section 5350) of Division 5 of the Welfare and Institutions Code.

(a) All petitions filed under this chapter shall be set for hearing within 30 days of the filing of such petitions.

(b) The conservator shall promptly advise the court issuing the letters of conservatorship in writing of all changes in the residence or domicile of the conservatee.

SEC. 6. Section 2006 of the Probate Code is amended to read:

2006. In any proceeding for the appointment of a conservator for the person and estate or person or estate of a proposed conservatee or for termination of a conservatorship under this division, the proposed conservatee shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses but is unable to retain legal counsel, the court shall, at the time of the hearing, appoint the public defender or other attorney to represent him.

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded. Demand for a court or jury trial shall be made within five days after the hearing on the conservatorship petition. A court or jury trial shall commence within 10 judicial days of the date of demand, except the court shall continue the trial date for a period not to exceed 15 judicial days upon the request of counsel for the proposed conservatee.

In any case in which the proposed conservatee or conservatee is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon the conclusion of the hearing, the court shall make a determination of the present ability of the proposed conservatee or conservatee to pay all or a portion of the costs of such counsel. If the court determines that the proposed conservatee or conservatee has the present ability to pay all or a

portion of the costs, it shall order him or the conservator of the estate to pay the sum, in the case of the public defender, or court-appointed counsel to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a conservator is not appointed for the proposed conservatee, execution may be issued on the order in the same manner as on a judgment in a civil action.

CHAPTER 1316

An act to amend Sections 44210, 44212, 44213, and 44240 of the Education Code, relating to teacher preparation and licensing.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 44210 of the Education Code is amended to read:

44210. There is hereby established in the state government the Commission for Teacher Preparation and Licensing, to consist of members appointed by the Governor with the advice and consent of the Senate. The commission shall consist of five persons employed as certified personnel in public elementary and secondary schools in California, at least four of whom shall be full-time classroom teachers and one of whom shall hold a services credential with a specialization in administrative services; one person who is the holder of any permit or credential issued by the commission or its predecessor other than the teaching credential or services credential with a specialization in administrative services; one faculty member of an accredited public or private college or university in California who is engaged in full-time teaching; two school board members; and six representatives of the public.

With the exception of the six representives of the public, the appointment of a member shall terminate if he is no longer a certified employee in a public elementary or secondary school, or a faculty member of an accredited public or private college or university, or a school district governing board member, as may be the case, in California.

Not more than one member of the commission is to be appointed from the same school district or college or university campus.

No person who is, or has been, employed in a certificated position in an elementary or secondary school, or in any administrative, faculty, or professional position in any accredited institution of public or private postsecondary education, or who is a member of any governing board of a school district, or county board of education,

shall be appointed to the commission as a public member.

No person who is, or has been, employed in a certificated position in an elementary or secondary school, or in any administrative, faculty, or professional position in any accredited institution of public or private postsecondary education shall be appointed to the commission as a school board member.

The additional public members of the commission provided for in this section as amended during the 1977–78 Regular Session, shall be appointed by the Governor as vacancies in the commission occur, consistent with the requirements of professional representation.

SEC. 2. Section 44212 of the Education Code is amended to read:

44212. The Superintendent of Public Instruction, the Regents of the University of California, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges, the California Postsecondary Education Commission, and the Association of Independent California Colleges and Universities shall each appoint a representative to serve as member ex officio without vote.

Such ex officio members shall not vote in any proceedings of the commission nor in any of its committees or subcommittees.

SEC. 3. Section 44213 of the Education Code is amended to read:

44213. Upon the expiration of the term of office of an appointive member of the commission, such member's successor shall be appointed for a term of four years. No person shall be appointed by the Governor to serve more than two full terms. Prior service on the commission for a term of less than three years resulting from an initial appointment or an appointment for the remainder of an unexpired term shall not be counted as a full term.

SEC. 4. Section 44240 of the Education Code is amended to read:

44240. The commission shall appoint a Committee of Credentials, consisting of seven persons for terms fixed by the commission but not to exceed two years. The committee shall include:

(a) One member who shall be a full-time certified classroom teacher in the public elementary schools with not less than five years' classroom experience.

(b) One member who shall be a full-time certified classroom teacher in the public secondary schools with not less than five years' classroom experience.

(c) One member who shall be a certified administrative employee in the public schools.

(d) One member who shall be a past or present member of the governing board of any school district. No person who is or has been employed in a certificated position in the public schools shall be appointed as a school board member.

(e) Three members who shall be a representative of the public. No person who is or has been employed in a certificated position in the public schools or who is a member of any governing board of a school district or county board of education shall be appointed as a public member.

The additional public members of the committee provided for in this section as amended during the 1977–78 Regular Session, shall be appointed by the commission as vacancies in the committee occur, consistent with the requirements of professional representation.

CHAPTER 1317

An act to add Section 10217.7 to the Elections Code, relating to elections.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 10217.7 is added to the Elections Code, to read:

10217.7. At any regular meeting of a city council held prior to the date on which the Secretary of State conducts the randomized alphabet drawing applicable to the regular municipal election under the provisions of Section 10217, or, under the provisions of Section 10217.5, applicable to a special election called to fill a vacancy on the city council, the city council may, by resolution, provide for the rotation on the ballot of the names of candidates for any elective city office.

The resolution shall specify which regular statewide election precincts or, if precincts have been consolidated for purposes of the city election, which consolidated precincts shall constitute each cluster of precincts for purposes of the rotation of candidates' names on the ballot.

As used in this section, a "cluster" shall consist of one or more precincts which need not be contiguous. The clusters of precincts shall be numbered in consecutive order for purposes of ballot rotation of candidates' names and the resolution shall list the clusters by number and identify which precincts are in each cluster.

No cluster of precincts shall contain a number of registered voters which is more than 10 percent greater or lesser than the average number of registered voters for a cluster as of the most recent estimate by the county clerk of the number of registered voters in each regular precinct in the city prior to the adoption of the resolution. The resolution shall set forth the total number of registered voters in each cluster.

The resolution shall specify that in the cluster designated as cluster number one, the names shall appear on the ballot in the order determined by the Secretary of State's randomized alphabet drawing. For each successive cluster the resolution shall specify the manner of determining the order of the candidates' names by applying the following:

(a) If the number of candidates for an office is equal to or less than the number of clusters, in cluster number two and each successive cluster the name appearing first in the last preceding cluster shall be placed last, the order of the other names remaining unchanged.

(b) If the number of candidates for an office is greater than the number of clusters, the former shall be divided by the latter. If the resulting quotient is a mixed number and the fractional part of the mixed number is less than one-half, the fraction shall be discarded. If the fractional part of the mixed number is one-half or greater, the quotient shall be raised to the next largest whole number. The whole number which results from this process shall be the number of candidates which, in cluster number two and each successive cluster, shall be taken from the beginning of the list and placed at the end of the list, the order of the other names remaining unchanged.

No city may provide for rotation of candidates' names on the ballot for a particular election unless the resolution authorizing it, in accordance with the provisions of this section, is adopted by the city council at a regular meeting, at which the city clerk has provided cost estimates of such rotation, prior to the date of the randomized alphabet drawing applicable to the election.

CHAPTER 1318

An act to amend Sections 51068, 51350, and 51368 of, to add Sections 50912, 51068.5, and 51227.5 to, repeal and add Sections 51229 and 51360 to, and to repeal Section 50912 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 50912 of the Health and Safety Code is repealed.

SEC. 2. Section 50912 is added to the Health and Safety Code, to read:

50912. There shall be within the agency a senior vice president for finance appointed by the Governor and serving at the pleasure of the president of the agency.

The senior vice president for finance shall have responsibility for the financial operations of the agency and shall perform such other duties as may be required by the president or the board.

SEC. 2.2. Section 51068 of the Health and Safety Code is amended to read:

51068. Prior to authorizing a mortgage loan under Chapter 5 (commencing with Section 51100) of this part or a mortgage loan under Chapter 6 (commencing with Section 51300) of this part, if the

loan under either such chapter is for the purchase of an owner-occupied housing development, the agency shall:

(a) Require an appraisal of the housing development be done by a competent and experienced appraiser.

(b) Establish a maximum sale price for the housing development pursuant to Section 51064, not in excess of appraised value.

(c) Require that the housing development be either newly constructed, recently rehabilitated, subject to an agreement where the borrower has agreed to conform to rehabilitation standards within a time and in a manner specified by the agency, or certified by the local code enforcement agency or the department to be in good condition.

(d) Require that the purchaser intend to occupy the housing development.

(e) Require that the loan bear below-market interest, except as otherwise provided in Chapter 6 (commencing with Section 51300) of this part.

(f) Require, notwithstanding Section 1916.5 of the Civil Code, that a mortgage payment schedule at market interest be substituted for an original payment schedule at below-market interest, when a subsequent purchaser is not a person or family of low or moderate income, and that additional payments of interest resulting therefrom be forwarded to the agency. Until July 1, 1979, the agency may waive the requirement of this subdivision when necessary to permit participation in mortgage insurance, guarantee, or purchase programs, or when this provision would interfere with the financial structuring or the administration of any bond financing program. On and after July 1, 1979, the agency may grant waivers of the requirement of this subdivision only in accordance with Section 51068.5, and only with respect to federally assisted or insured mortgage loans.

SEC. 2.4. Section 51068.5 is added to the Health and Safety Code, to read:

51068.5. The agency shall implement appropriate measures to assure compliance with the requirements of subdivision (f) of Section 51068 with respect to all mortgage loans made after June 30, 1979, without exception, provided that such measures are permissible under applicable federal law.

SEC. 2.6. Section 51227.5 is added to the Health and Safety Code, to read:

51227.5. (a) It shall be a goal of the highest priority for the agency to finance no less than 1500 units (representing approximately 25 percent of the total units financed) for very low income households with the proceeds of the first three hundred million dollars ($300,000,000) of additional bonding authority provided by amendments to Section 51350 enacted by the act adding this section.

(b) The agency shall allocate not less than 50 percent of the proceeds of bonds issued pursuant to such additional bonding

authority for loans for new construction or the substantial rehabilitation of housing units. This requirement shall apply to the initial loans made with the bond proceeds specified in this section and may be waived by the agency to the extent it interferes with the financing of housing units for very low income households.

(c) On May 1, 1979, and each 60 days thereafter the agency shall submit to the Legislature a report on its progress toward and ability to achieve the goals and the requirements of subdivisions (a) and (b). Reporting obligations under this subdivision shall cease upon full achievement of, and compliance with, such goals and requirements, or upon submitting a report to the Legislature and Governor pursuant to subdivision (d), whichever first occurs.

(d) If, and at such time as the board determines it is not possible to achieve the goals and requirements of subdivisions (a) and (b), the agency shall promptly report to the Legislature and the Governor the reasons therefor and make recommendations for legislative action, including such appropriations as may be necessary to increase the supply of housing units for very low income households.

(e) Nothing in this section shall be construed to modify or limit the other provisions of this division.

SEC. 2.8. Section 51229 of the Health and Safety Code is repealed.

SEC. 3. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its negotiable bonds in such principal amount as the agency shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of such bonds.

(b) Sale of the bonds of the agency shall be coordinated by the State Treasurer. To obtain a date for the sale of bonds, the agency shall inform the State Treasurer of the amount of the proposed issue. Upon such notification, the State Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the State Treasurer have mutually agreed. The State Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the State Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time

made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders thereof.

(c) The aggregate principal amount of bonds, including both nonguaranteed bonds and guaranteed taxable bonds, which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premimum thereon and any interest accrued or to accrue to the date of redemption of such bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

SEC. 3.5. Section 51360 of the Health and Safety Code is repealed.

SEC. 3.7. Section 51360 is added to the Health and Safety Code, to read:

51360. There is hereby created a Housing Bond Credit Committee composed of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the agency president. The State Treasurer shall be chairperson of the committee. The members of the committee shall serve on the committee without compensation. A majority shall be empowered to act for such committee. Prior to the issuance of any bonds, the board shall submit to the committee a statement of the purpose for which bonds are proposed to be issued and the amount of the proposed issuance. The committee shall determine the general adequacy of the program's security in protecting the state's credit. If the committee finds the state's credit would be subject to an undue risk, it may disapprove the proposed issuance or reduce the amount of the proposed issuance.

The committee chairperson shall appoint a financial advisor who shall aid the committee in the performance of its duties under this chapter, perform independent financial research and assessment, provide liaison between the committee and the agency, and perform such other duties as may be required by the committee.

The agency shall reimburse the committee for any compensation paid by the committee to the financial advisor.

SEC. 4. Section 51368 of the Health and Safety Code, as added by Chapter 380 of the Statutes of 1978, is amended to read:

51368. The Supplementary Bond Security Account is hereby created in the California Housing Finance Fund. Moneys in such account may be transferred into separate, individual accounts in the fund which shall be known as supplementary reserve accounts, but the amounts appropriated to the Supplementary Bond Security Account shall be utilized to secure issuances of bonds under this chapter as deemed necessary by the agency and shall be used for no other purpose. Upon issuance of any bonds pursuant to this chapter, the agency may create a supplementary reserve account to secure payment of the principal of, interest, redemption-premium, and

sinking fund payments on such bonds.

When all obligations secured by all supplementary reserve accounts are retired the Supplementary Bond Security Account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund in the State Treasury of amounts advanced to the Supplementary Bond Security Account from the General Fund, less any amount previously repaid on account of such advances. Remaining funds shall be paid into the general accounts of the housing finance agency unless otherwise obligated.

When the amount in a bond reserve fund falls below the minimum bond reserve fund requirement for such fund and available revenues of the agency pledged to the prescribed minimum bond reserve fund requirement are insufficient to restore such fund, the agency shall transfer to the bond reserve fund, from the supplementary bond reserve account securing such bonds, the amount necessary to restore such fund to the minimum bond reserve fund requirement. Moneys in supplementary reserve accounts may be used to directly pay the interest, principal and sinking fund payments on the bonds as provided by bond resolution. To secure issuances of bonds, the supplementary reserve accounts may also be used to insure mortgages to protect the value of the housing developments or other residential structures serving as real property security, except owner-occupied housing developments, in any manner permitted by bond resolution.

Notwithstanding other provisions of this part, interest on the twenty million dollars ($20,000,000) appropriated for the Supplementary Bond Security Account shall be paid to the General Fund at the end of each fiscal year, except that the interest earned by ten million dollars ($10,000,000) of such moneys during the 1979 calendar year shall be deemed surplus pursuant to Section 51007 and shall be segregated in a special account in the fund for use for the purposes specified in Section 51007.

SEC. 5. The sum of ten million dollars ($10,000,000) is hereby appropriated from the General Fund for transfer to the Supplementary Bond Security Account in the California Housing Finance Fund. Such moneys shall constitute an advance from the General Fund for purposes of Section 51368 of the Health and Safety Code.

CHAPTER 1319

An act to amend Sections 6502, 6504, 6506 and 6509 of, to amend and renumber Section 6500.1 of, to add Section 6504.5 to, and to repeal Section 6500 of, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 6500 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 6500.1 of the Welfare and Institutions Code is amended and renumbered to read:

6500. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he is a danger to himself or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event such subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his right to counsel by the court; and if he does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him. The person shall pay the cost for such legal service if he is able. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates such authority to the county counsel.

SEC. 4. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of a mentally retarded person to the State Department of Developmental Services may be filed in the superior court of the county in which such person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, or other person charged with the support of the mentally retarded person.

(b) The probation officer.

(c) The Youth Authority.

(d) Any person designated for that purpose by the judge of the court.

(e) The Director of Corrections.

(f) The regional center director or his designee.

Such request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

SEC. 5. Section 6504 of the Welfare and Institutions Code is amended to read:

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the alleged mentally retarded person. Whenever a petition is filed, the court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, or other person charged with the support of the person mentioned in the petition.

SEC. 5.5. Section 6504.5 is added to the Welfare and Institutions Code, to read:

6504.5. Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 of this code, or the designee of the director, to examine the alleged mentally retarded person.

Within 15 judicial days after his appointment, the regional center director or designee shall submit to the court in writing a report containing his evaluation of the alleged mentally retarded person. The report shall contain a recommendation of a facility or facilities in which the alleged developmentally disabled person may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment.

SEC. 6. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing the alleged mentally retarded person may be left in the charge of his parent, guardian, or other suitable person, or may be placed in a state hospital for the developmentally disabled or in the county psychiatric hospital.

SEC. 7. Section 6509 of the Welfare and Institutions Code is amended to read:

6509. If the court finds that the person is mentally retarded, and that he is a danger to himself or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, any licensed community care facility as defined in Section 1504, or any health facility as defined in Section 1250. The court shall hold a hearing as to the available placement alternatives and consider the report of the regional center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence the court shall order that the person be committed to that placement which the court finds to be the most appropriate alternative. The court, however, may commit a mentally retarded person who is not a resident of this state under Section 4460 for the purpose of transportation of such person to the state of his legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

If the Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney and the attorney of record for the person and the regional center of such decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

CHAPTER 1320

An act to add Section 5325.1 to the Welfare and Institutions Code, relating to the mentally ill.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 5325.1 is added to the Welfare and Institutions Code, to read:

5325.1. Persons with mental illness have the same legal rights and responsibilities guaranteed all other persons by the Federal Constitution and laws and the Constitution and laws of the State of California, unless specifically limited by federal or state law or regulations. No otherwise qualified person by reason of having been involuntarily detained for evaluation or treatment under provisions of this part or having been admitted as a voluntary patient to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

It is the intent of the legislature that persons with mental illness shall have rights including, but not limited to, the following:

(a) A right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.

(b) A right to dignity, privacy, and humane care.

(c) A right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.

(d) A right to prompt medical care and treatment.

(e) A right to religious freedom and practice.

(f) A right to participate in appropriate programs of publicly supported education.

(g) A right to social interaction and participation in community activities.

(h) A right to physical exercise and recreational opportunities.

(i) A right to be free from hazardous procedures.

CHAPTER 1321

An act to add Section 1420.35 to the Labor Code, and to amend Section 2626.2 of, and to add Article 4 (commencing with Section 3100) to Chapter 5 of Part 2 of Division 1 of, the Unemployment Insurance Code, relating to discrimination.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 1420.35 is added to the Labor Code, to read:

1420.35. It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(a) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(b) For any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions either:

(1) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including to take disability or sick leave or any other accrued leave which is made available by the employer to temporarily disabled employees. For purposes of this section, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability. However, no employer shall be required to provide a female employee disability leave on account of normal pregnancy, childbirth, or related medical condition for a period exceeding six weeks. Nothing in this section shall be construed to require an employer to provide his or her employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

(2) To take a leave on account of pregnancy for a reasonable period of time; provided, such period shall not exceed four months. Such employee shall be entitled to utilize any accrued vacation leave during this period of time. Reasonable period of time means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. Nothing herein shall be construed to limit the provisions of paragraph (1) of subdivision (b) of this section.

An employer may require any employee who plans to take a leave pursuant to this subdivision to give the employer reasonable notice of the date such leave shall commence and the estimated duration of such leave.

(c) (1) For an employer who has a policy, practice, or

collective-bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests.

(2) For any employer to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated, provided, however, that no employer shall be required by this section to create additional employment which the employer would not otherwise have created, nor shall such employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

(d) This section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy.

SEC. 2. Section 2626.2 of the Unemployment Insurance Code is amended to read:

2626.2. Benefits relating to pregnancy shall be paid under this part only in accordance with the following:

(a) Disability benefits shall be paid upon a doctor's certification that the claimant is disabled because of an abnormal and involuntary complication of pregnancy, including but not limited to: puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

(b) Disability benefits shall be paid upon a doctor's certification that a condition possibly arising out of pregnancy would disable the claimant without regard to the pregnancy, including but not limited to: anemia, diabetes, embolism, heart disease, hypertension, phlebitis, phlebothrombosis, pyelonephritis, thrombophlebitis, vaginitis, varicose veins, and venous thrombosis.

(c) Disability benefits shall be paid, upon a doctor's certification that the claimant is disabled because of a normal pregnancy, for a period not to exceed three weeks immediately prior to the expected birth of a child, and for a period not to exceed three weeks immediately after the termination date of a normal pregnancy. A normal pregnancy presupposes the birth of a live infant without the abnormal complications specified in subdivision (a) of this section.

(d) There shall be no reimbursement pursuant to subdivision (c) to an employee who has received benefits for pregnancy, childbirth, or pregnancy-related medical conditions from an employer as provided for by Section 1420.35 of the Labor Code and Section 3100 of this code, notwithstanding the employees' right to receive the maximum benefits as allowed under this section and Section 1420.35 of the Labor Code.

SEC. 3. Article 4 (commencing with Section 3100) is added to Chapter 5 of Part 2 of Division 1 of the Unemployment Insurance Code.

Article 4. Pregnancy Benefits

3100. The director shall, in accordance with authorized procedures for establishing regulations, reimburse employers with private disability plans or paid sick leave plans, or both, for payments made by employers of pregnancy benefits to the extent that such benefits would have been payable under Section 2626.2 of this code and under the provisions of Section 1420.35 of the Labor Code, to the extent permitted by federal law.

SEC. 4. In the event Congress enacts legislation amending Title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, the provisions of this act, except paragraph (2) of subdivision (b) of Section 1420.35 of the Labor Code, shall be inapplicable to any employer subject to such federal law, except that this section shall not pertain to complaints filed prior to the effective date of this act.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

CHAPTER 1322

An act to add Section 1367.6 to the Health and Safety Code, and to add Sections 10123.8 and 11512.15 to the Insurance Code, relating to mastectomy.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 1367.6 is added to the Health and Safety Code, to read:

1367.6. Every health care service plan contract which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall include coverage for prosthetic devices or reconstructive surgery incident to the mastectomy, providing that such mastectomy is performed after July 1, 1980. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

SEC. 2. Section 10123.8 is added to the Insurance Code, to read:

10123.8. Every group policy of disability insurance or self-insured employee welfare benefit plan which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall include coverage for prosthetic devices or reconstructive surgery incident to the mastectomy, providing that such mastectomy is performed after July 1, 1980. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

SEC. 3. Section 11512.15 is added to the Insurance Code, to read:

11512.15. Every nonprofit hospital service contract which provides for the surgical procedure known as a mastectomy and which is issued, amended, delivered or renewed in this state on or after July 1, 1980, shall include coverage for prosthetic devices or reconstructive surgery incident to the mastectomy, providing that such mastectomy is performed after July 1, 1980. Coverage for prosthetic devices and reconstructive surgery shall be subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician and surgeon.

Any provision in any contract issued, amended, delivered or renewed in this state on or after July 1, 1980, which is in conflict with this section shall be of no force or effect.

CHAPTER 1323

An act to amend Sections 4550 and 4800 of the Civil Code, relating to family law.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 4550 of the Civil Code, as added by Assembly Bill No. 539 of the 1977–78 Regular Session, is amended to read:

4550. A marriage may be dissolved by the summary dissolution procedure specified in this chapter when all of the following conditions exist at the time the proceeding is commenced:

(a) Either party has met the jurisdictional requirements of Sections 4530 and 4531 with regard to dissolution of marriage.

(b) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(c) There are no minor children of the parties born or adopted during the marriage, and the wife, to her knowledge, is not pregnant.

(d) The marriage is not more than two years in duration at the time the petition is filed.

(e) Neither party has any interest in real property wheresoever situated.

(f) There are no unpaid obligations in excess of two thousand dollars ($2,000), incurred by either or both of the parties from the date of marriage, excluding the amount of any unpaid obligations with respect to automobiles.

(g) The total fair market value of community property assets, excluding all encumbrances and automobiles, is less than five thousand dollars ($5,000) and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of five thousand dollars ($5,000).

(h) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have duly executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(i) The parties waive any rights to spousal support.

(j) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal, their rights to request findings of fact and conclusions of law, and their rights to move for a new trial.

(k) The parties have read and understand the summary dissolution brochure provided for in Section 4556.

(*l*) The parties desire that the court dissolve the marriage.

SEC. 2. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its interlocutory judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties, including any such property from which a homestead has been selected, equally. For purposes of making such division, the court shall value the assets and liabilities as near as

practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by such party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its final judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust.

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages, and all other facts of the case, determines that the interests of justice require another disposition. In such case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of such damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received by a married person as community property in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages, unless such money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 3. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or an oral stipulation of the parties in open court, the court shall, either

in its interlocutory judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties, including any such property from which a homestead has been selected, equally. For purposes of making such division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by such party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its final judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust.

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages reduced by any reimbursement claimed under subdivision (b) of Section 5126, shall be treated as community property to the extent to which the community has incurred lost earnings because of the injury and shall be treated as the separate property of the injured spouse to the extent of any remainder. At least one-half of the damages distributed under the provisions of this subdivision shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received by a married person as community property in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages, unless such money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3362 are both chaptered and become effective January 1, 1979, both bills amend Section 4800 of the Civil Code, and this bill is chaptered after Assembly Bill No. 3362, that the amendments to Section 4800 proposed by both bills be given effect and incorporated in Section 4800 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 3362 are both chaptered and become effective January 1, 1979, both amend Section 4800, and this bill is chaptered after Assembly Bill No. 3362, in which case Section 2 of this act shall not become operative.

SEC. 5. It is the intent of the Legislature that Section 1 of this bill shall become effective only if Assembly Bill No. 539 of the 1977–78 Regular Session is chaptered.

CHAPTER 1324

An act relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The Legislature finds that an alternative form of health care—hospice care—is being provided to an increasing number of terminally ill patients and their families. The Legislature further finds hospice care is an important innovation which should be recognized and encouraged.

Hospice is a program which provides palliative and supportive care for terminally ill patients and their families, either directly or on a consulting basis, with the patient's physician or a community agency, such as a visiting nurses association. The whole family is considered the unit of care, and care extends through the mourning period. A full scope of health services are provided by an organized interdisciplinary team available whenever necessary.

The Legislature intends that the terminally ill and their families have access to, and receive, the best care possible. The Legislature further intends that the State Department of Health Services evaluate hospice care and report to the Legislature effective hospice care techniques and what steps, if any, the state should take to encourage and facilitate such care.

SEC. 2. The State Department of Health Services shall conduct at least two hospice pilot projects to establish regulations, and levels of reimbursement for Medi-Cal recipients, and to evaluate hospice care. The pilot projects shall:

(a) Be funded through a grant to nonprofit hospice organizations located in the State of California.

(b) Be conducted for a period of one year commencing on or before April 1, 1979, and ending no later than April 1, 1980.

(c) Provide reimbursement for eligible Medi-Cal recipients and their families.

(d) Be awarded in a manner which recognizes the diversity in hospice care delivery. At least one grant shall be made to an organization providing in-home hospice care.

(e) To the maximum extent possible make use of existing federal and state health care funding mechanisms.

(f) Provide for equal access by all patients and contain community representation on all governing boards.

(g) Make available all patient care and financial records requested by the State Department of Health Services in conduct of its evaluation.

SEC. 3. (a) The State Department of Health Services shall report to the Legislature by January 1, 1980, on the progress of implementation of these grants; and

(b) The State Department of Health Services shall report to the Legislature by April 1, 1980, conclusions and recommendations including, but not limited to, the following issues:

(1) Whether Medi-Cal reimbursement should be made available for hospice care; and, if so, recommendations on rates and regulations.

(2) An assessment of the quality and cost-effectiveness of:

(i) Use of layperson volunteers for hospice care.

(ii) Hospice vs. traditional care.

(iii) Institutional vs. in-home hospice care.

(3) An assessment of the current and projected demand for hospice care; the need for construction of hospice facilities and/or use of existing facilities.

SEC. 4. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the State Department of Health Services for purposes of this act. Before using such funds, the department shall seek and utilize any available federal funds to carry out this act.

CHAPTER 1325

An act to add Article 6 (commencing with Section 1246) to Chapter 1 of Division 2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Article 6 (commencing with Section 1246) is added to Chapter 1 of Division 2 of the Health and Safety Code, to read:

Article 6. Grants for Clinics

1246. The Legislature finds and declares that:

(a) In California there are approximately 160 community clinics and free clinics which provide primary health care at low cost for a significant portion of the medically underserved population; and these clinics account for more than 1,000,000 patient visits annually.

(b) Increasingly large caseloads, the debilitating effects of inflation on purchased goods and services, and a lack of financial resources are forcing many community and free clinics to curtail services needed in their communities.

(c) Recognizing the contribution of community and free clinics to the health care of Californians and the contribution of such clinics to lowering the costs of health care, it is in the interest of the people of this state to ensure continuation of clinic programs by providing necessary funding.

1247. The state department shall conduct a program of grants-in-aid (1) to assist in stabilizing the health care operations of community clinics and free clinics which provide a wide range of primary health care services, and (2) to fund innovative and creative programs of such clinics designed to provide a high quality of health services at minimum cost. Eligibility for such grants shall be limited to community clinics, free clinics, and any nonprofit corporation which is comprised of not less than three such clinics having a combined service area covering an entire county or more and which has existed for not less than one year prior to submission of an application for a grant under this article. As a condition to making a grant pursuant to this article, the director shall require the applicant to match not less than 20 nor more than 40 percent of the amount granted. The required match shall be determined by the director, based upon the ability of the applicant to match the grant. The required match may be in cash or in-kind contributions, or a combination of both, and in-kind contributions may include, but shall not be limited to, staff and volunteer services. The director may waive all or a portion of the grantee match in individual cases of demonstrated hardship if the director determines that making the grant would effectively serve the purposes of this article. The director shall adopt criteria to be applied in determining whether to grant requests for such waivers.

1247.5. The state department shall annually receive and process grant applications submitted by eligible applicants, and shall allocate

grant moneys in accordance with the policies and priorities adopted pursuant to this article. Individual grants shall be limited to a maximum of sixty thousand dollars ($60,000), including grants to nonprofit corporations comprised of more than one clinic. However, grants may be renewed on an annual basis, subject to the submission and review of an annual renewal application, which shall be considered with, and subject to the same priorities as, new applications. No applicant shall receive more than one grant in any year.

Each grant shall be subject to a contract between the state department and the grantee prescribing the services to be provided by the grantee thereunder and other conditions of the grant. Such contracts may provide for periodic advance payments for services to be performed, but in no event shall advance payments exceed 25 percent of the grant.

1248. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall seek to maximize the impact of the program and promote the maintenance and development of effective outpatient health care. Clinics primarily serving population groups determined by the director to be medically underserved shall be entitled to first consideration in the allocation of grant funds.

The state department shall adopt guidelines for establishment of grant-supported activities, including criteria for objective evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Health Manpower Policy Committee, such advisory committees as the state department determines are appropriate, and management personnel of community and free clinics.

1248.2. Applications by clinics which are located in rural areas, as determined by the director, shall be administered by the departmental unit established pursuant to Section 1188. However, funds appropriated by the act enacting this article shall be used only for the purpose of funding grants specifically authorized by this article and for administrative expenses related thereto.

1248.3. Applications by clinics which are located in urban areas, as determined by the director, shall be administered by the urban health services unit of the state department. However, funds appropriated by the act enacting this article shall be used only for the purpose of funding grants specifically authorized by this article and for administrative expenses related thereto.

1248.5. It is the intent of the Legislature to prevent the potential loss of needed community health services and to maintain the health care services now provided by community clinics and free clinics by making annual appropriations for the purposes of this article. In addition to the amounts regularly appropriated for purposes of this article, the state department shall seek supplementary funding from the federal government and private sources. Costs of administration

of this article shall not exceed an amount equal to 3 percent of the aggregate amount of grants-in-aid actually provided during the fiscal year.

1249. On or before January 1, 1980, the state department shall submit a report to the Legislature describing the types, locations, and effectiveness of activities assisted pursuant to this article.

SEC. 2. Any funds made available for purposes of this act under any federal program or by an appropriation in the Budget Act shall be transferred to the State Department of Health or its successor, the State Department of Health Services, for making grants, and administrative costs incurred, pursuant to Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code.

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

It is necessary that this act take effect immediately in order to insure that community clinics and free clinics, which are a primary source of health care for a significant portion of the medically unserved, accounting for more than 1,000,000 patient visits annually, maintain a continuity of care in order to guarantee the existence of an alternative health care delivery system and to reduce health care costs.

CHAPTER 1326

An act to amend Section 14104.3 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 14104.3 of the Welfare and Institutions Code is amended to read:

14104.3. (a) The department may, to the extent feasible, enter into nonexclusive contracts providing arrangements under which funds available for health care under this chapter shall be administered and disbursed to providers of health care or to their designated agents in consideration for services rendered and supplies furnished by them in accordance with the provisions of the applicable contract and any schedule of charges or formula for determining payments established pursuant to such contract. Such contract shall provide that the contractor:

(1) Will take such action as may be necessary to assure that payment for services to hospitals and other facilities and professional

services shall be predicated on the basis of reimbursement for reasonable cost based on standards determined by the director. The formula for such payments shall be determined in accordance with regulations establishing the methods to be used and the items to be included. In prescribing such regulations, the department shall consider, among other things, the principles generally applied by state organizations representing such hospitals or other facilities or by established prepayment organizations which have developed such principles, in determining the method or methods to be used in arriving at the payment formula.

(2) Will take such action as may be necessary to assure that where payment under this chapter is on a charge basis, such charge will be reasonable and not higher than the charge applicable for a comparable service and under comparable circumstances to the policyholders and subscribers of the contractor.

(3) Bills for service under this chapter shall be reviewed and rejected or processed for payment within an average of 18 days from receipt of evidence establishing validity of the bill for payment in the office of the contractor. If it is determined by the contractor that additional evidence of validity is required, such evidence shall be requested within 18 days from the date the bill is received by the contractor. In any event, notice shall be given within 30 days from the date the bill is received concerning the status of the bill submitted if such bill is held for peer review by the contractor beyond 18 days. In no event shall the number of bills not processed for payment within 30 days of receipt exceed 9 percent of the total bills inventory.

(b) Contracts awarded under this section shall be awarded on a bid basis, and before entering into any such contract, the director shall publish notice soliciting bids.

(c) Contracts awarded under this section may provide:

(1) Payments to the contractor may be on a capitation or prepayment basis, or on a combination of both methods of payment.

(2) Providers may assume all or part of the risk of utilization of services, or costs of services, or both, and that providers who agree to assume such risk may be separately classified for purposes of applicable rates of payment or administrative requirements.

(3) Such other provisions as have previously been incorporated into pilot programs established pursuant to Chapter 8 (commencing with Section 14200) of this part and determined by the director to be desirable and feasible.

The director, at least once each year, shall report to the Joint Legislative Budget Committee actions taken by him in the awarding of contracts under this section, including, but not limited to, the number and types of bids submitted, the basis on which contracts were awarded, and, if a contract is awarded to other than the lowest bidder, the reason for such action.

SEC. 2. The provisions of this act which change the number of days within which to process a Medi-Cal bill for service which does

not require peer review shall be implemented no later than July 1, 1980. All other provisions shall be implemented on January 1, 1979.

CHAPTER 1327

An act to add Section 14117 to the Welfare and Institutions Code, relating to Medi-Cal recipients.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 14117 is added to the Welfare and Institutions Code, to read:

14117. Information relating to the medication provided to Medi-Cal recipients, shall be disclosed by the department or its agents, to physicians who are treating those same recipients as patients, upon request of the treating physician.

SEC. 2. Pursuant to Section 28 of the Budget Act of 1978 (Chapter 359, Statutes of 1978), the Director of Finance shall report on the cost of implementing Section 14117 of the Welfare and Institutions Code, as added by this act, to the Joint Legislative Budget Committee. A final report shall be submitted no later than June 15, 1979.

CHAPTER 1328

An act to amend Section 14132 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, licensed clinical social work psychotherapy as defined in Section 9049 of the Business and Professions Code, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be

encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist's services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(s) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for

medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an

approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray

services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for

patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to

prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment

requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 2. It is the intent of the Legislature that if this bill and Assembly Bill No. 1096, Assembly Bill No. 2424, Assembly Bill No. 2960 are chaptered and amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 1096 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 1096, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 1096 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2424 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 2424 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2424, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.2 of this act. Therefore, if Assembly Bill No. 2424 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, Section 1.2 of this act shall be operative and Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2960 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill No. 2424 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2960, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form

set forth in Section 1.3 of this act. Therefore, if Assembly Bill No. 2960 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2424 are not chaptered or as chaptered do not amend that section, Section 1.3 of this act shall be operative and Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(d) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2424 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2424, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.4 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2424 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, Section 1.4 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6 and 1.7 of this act shall not become operative.

(e) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2960 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2960, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.5 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2960 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2424 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6 and 1.7 of this act shall not become operative.

(f) If this bill, Assembly Bill No. 2424 and Assembly Bill No. 2960 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2424 and Assembly Bill No. 2960, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.6 of this act. Therefore, if Assembly Bill No. 2424 and Assembly Bill No. 2960 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, Section 1.6 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5 and 1.7 of this act shall not become operative.

(g) If this bill and Assembly Bill No. 1096, Assembly Bill No. 2424, and Assembly Bill No. 2960 are all chaptered, and all four bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 1096, Assembly Bill No. 2424 and

Assembly Bill 2960, the amendments proposed by all four bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.7 of this act. Therefore, if Assembly Bill No. 1096, Assembly Bill No. 2424, and Assembly Bill No. 2960 are chaptered before this bill and all four bills amend Section 14132 of the Welfare and Institutions Code, Section 1.7 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this act shall not become operative.

CHAPTER 1329

An act to amend Section 14492 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 14492 of the Welfare and Institutions Code is amended to read:

14492. In addition to other pilot programs established pursuant to this article, the department also shall establish publicly operated health service delivery systems as pilot programs, to determine whether high quality, comprehensive Medi-Cal benefits can be provided at a reasonable cost on a prepayment basis in a public service system. The department shall provide technical assistance to any county or other public entity that desires to establish such a program. To the extent possible, the department shall establish programs in both rural and urban areas. Each publicly operated pilot program shall comply with the following:

(a) The program shall be publicly operated either by the department directly or through contract with other public entities.

(b) The program may be regional in nature, extending beyond the boundaries of any one county.

(c) The program shall enroll Medi-Cal recipients and be funded by the department on a prepayment capitation basis determined in accordance with the method for establishing capitation rates paid by the department to prepaid health plans under this chapter for the same or similar care.

(d) The program shall provide the full range of Medi-Cal services required of prepaid health plans and shall meet all statutory requirements and all regulatory and contractual requirements established by the department for the program.

(e) The program shall emphasize the innovative use of health personnel including midlevel medical, nursing and dental professionals in ambulatory settings.

(f) Medi-Cal recipients enrolling in a pilot program pursuant to

this section shall be offered a choice of qualified primary care physicians employed by the program to be the recipients' designated primary care physicians.

(g) One program shall include provision for the enrollment of low-income persons who are not eligible for Medi-Cal as cash grant recipients. Such persons shall be potentially eligible for medically needy or medically indigent status. The expenditures by the Medi-Cal program for such enrollees, when taken together with expenditures for medically needy and medically indigent persons in that county who are not enrolled in the prepayment program, shall not exceed the expenditures made by Medi-Cal for all medically needy and medically indigent persons in that county during the 1977–78 fiscal year, as adjusted for cost of living by the department.

The department shall establish standards of eligibility for low-income persons who are potentially eligible for the medically needy or medically indigent status and who wish to enroll in this pilot program. Such standards shall include a share of the cost to be paid by such enrollees. The department shall also establish the county's financial obligation for a portion of the cost of care of such enrollees.

The provision of Medi-Cal payment for persons potentially eligible for the medically needy or medically indigent status who are enrolled in this pilot program shall cease on December 31, 1982, unless the operation of this pilot program is extended by the Legislature.

The department shall, by February 1, 1982, report to the Legislature and the Governor concerning the effect of enrolling low-income persons who are potentially eligible for the medically needy or medically indigent status. The report shall determine any changes in the amount of state and county funds expended for health care because low-income persons who are not required to become eligible for the medically needy or medically indigent status are enrolled in a pilot project and any changes in the categories of health services provided in the county because low-income persons who are not required to become eligible for the medically needy or medically indigent status are enrolled in a pilot program.

CHAPTER 1330

An act to amend Section 14132 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician's services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on

the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease required an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical centers, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and

physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic

shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present funtional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and

physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to

utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this

part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses,

and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as

long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered

by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated. is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center,

optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond

the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 2. It is the intent of the Legislature that if this bill and Assembly Bill No. 1096, Assembly Bill No. 2424, Assembly Bill No. 2961 are chaptered and amend Section 14132 of the Welfare and

Institutions Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(a) If this bill and Assembly Bill No. 1096 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 1096, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 1096 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2424 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 2424 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2424, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.2 of this act. Therefore, if Assembly Bill No. 2424 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.2 of this act shall be operative and Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2961 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 and Assembly Bill No. 2424 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2961, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.3 of this act. Therefore, if Assembly Bill No. 2961 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 1096 and Assembly Bill No. 2424 are not chaptered or as chaptered do not amend that section, Section 1.3 of this act shall be operative and Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6 and 1.7 of this act shall not become operative.

(d) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2424 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2961 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2424, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.4 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2424 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2961 is not chaptered or as chaptered

does not amend that section, Section 1.4 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6 and 1.7 of this act shall not become operative.

(e) If this bill, Assembly Bill No. 1096 and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1096 and Assembly Bill No. 2961, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.5 of this act. Therefore, if Assembly Bill No. 1096 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2424 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6 and 1.7 of this act shall not become operative.

(f) If this bill, Assembly Bill No. 2424 and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2424 and Assembly Bill No. 2961, the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.6 of this act. Therefore, if Assembly Bill No. 2424 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 1096 is not chaptered or as chaptered does not amend that section, Section 1.6 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5 and 1.7 of this act shall not become operative.

(g) If this bill and Assembly Bill No. 1096, Assembly Bill No. 2424, and Assembly Bill No. 2961 are all chaptered, and all four bills amend Section 14132 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 1096, Assembly Bill No. 2424 and Assembly Bill No. 2961, the amendments proposed by all four bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.7 of this act. Therefore, if Assembly Bill No. 1096, Assembly Bill No. 2424, and Assembly Bill No. 2961 are chaptered before this bill and all four bills amend Section 14132 of the Welfare and Institutions Code, Section 1.7 of this act shall be operative and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this act shall not become operative.

CHAPTER 1331

An act to amend Sections 1187.5 and 1188.4 of, to add Sections 1185.5 and 1185.6 to, and to repeal Section 1185.5 of, the Health and Safety Code, relating to rural health services development, and making an appropriation therefor.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 1185.5 of the Health and Safety Code is repealed.

SEC. 2. Section 1185.5 is added to the Health and Safety Code, to read:

1185.5. The Office of the Legislative Analyst shall annually report to the Governor and the Legislature, commencing on June 30, 1979, with respect to the effectiveness of the program in meeting the goals set forth in this part. The report shall include, but not be limited to, the following:

(a) An evaluation of the effectiveness of the health services development projects in meeting both the unmet health needs of the community and the goals specified in each project's grant contract.

(b) A study of the California Health Services Corps with respect to its effectiveness in placing medical personnel in medically underserved areas.

(c) An evaluation of the interaction between the health services development projects and existing medical services.

SEC. 3. Section 1185.6 is added to the Health and Safety Code, to read:

1185.6. (a) It is the intent of the Legislature that the Rural Health Services Development Program be funded annually through the budgetary process, commencing July 1, 1979, in the amount deemed necessary for such purpose.

(b) Project contracts funded with moneys appropriated by Chapter 1196 of the Statutes of 1976 as of December 31, 1978, may be extended until June 30, 1979, at the discretion of the state department.

(c) Notwithstanding any other provision of law, the state department may, to the extent funds are available, provide for advance payments for services to be performed under any contract entered into pursuant to this part with any small community based public or private nonprofit agency with modest reserves and potential cash flow problems, where the state department determines that such advance payments will further the purposes of this part. Advance payments shall not be made more than once a year.

SEC. 4. Section 1187.5 of the Health and Safety Code is amended

to read:

1187.5. Project proposals shall be considered which address the health needs of rural populations, including, but not limited to, migratory and other agricultural workers, native Americans, and senior citizens, which have insufficient access to adequate levels of health care services due to geographical isolation or economic factors.

Projects which are approved shall contain one or more of the following elements:

(1) Provides primary health care, including preventive health services and diagnostic, treatment, referral, and followup services.

(2) Provides comprehensive health care, including specialized physician services, inpatient and outpatient facilities, laboratory and X-ray services, home health services, and other specialized services.

(3) Provides emergency medical services designed to meet the special problems of rural isolation.

(4) Provides transportation appropriate to achieving the goal of making health care services available to residents of rural areas.

(5) Provides electronic communication technology to improve health care delivery and emergency health services in the designated rural areas.

(6) Establishes regional health systems, including linkage with both rural and urban health programs and facilities.

(7) Improves the quality of medical care and the administrative capabilities of agencies and management systems in rural areas.

(8) Provides health education programs in the designated rural areas, including health and nutrition education, and continuing education for health professionals.

(9) Promotes nurse practitioner and physician assistants programs and other programs for training and placement of health professionals in the designated areas to respond to rural manpower shortages.

SEC. 5. Section 1188.4 of the Health and Safety Code is amended to read:

1188.4. The Health Manpower Policy Commission, in coordination with the Rural Health Section of the state department, shall designate the geographical rural areas within California where unmet priority need for medical services exists.

SEC. 4. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure from January 1, 1979, to June 30, 1979, for purposes of Part 4 (commencing with Section 1185) of Division 1 of the Health and Safety Code.

CHAPTER 1332

An act to add and repeal Article 10 (commencing with Section 1339) of Chapter 2 of Division 2 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Article 10 (commencing with Section 1339) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 10. Primary Health Service Hospitals

1339. The Legislature hereby finds and declares that:

(a) In many areas, small, rural general acute care hospitals are experiencing financial difficulties brought upon partially because of governmental regulations and underutilization of acute care beds.

(b) Closure of such facilities, in most cases, would represent a direct threat to the health and well-being of both the resident and tourist populations served by these facilities.

(c) Availability and accessibility to primary and preventive health care services could be greatly improved through coordination with existing resources in the area.

(d) Because of the special attributes of the small, rural general acute care hospital, such as longevity, focus of community support, critical geographic location, and availability of ancillary services, such facilities could serve as the major focal point for the promotion of health and the delivery of health care sevices within the rural community.

(e) There is a lack of systematic study and evaluation of the economics of efficiently operating small rural hospitals and the ways in which these hospitals might more effectively meet the health needs of their communities.

1339.3. It is, therefore, the intent of the Legislature to create, for purposes of demonstration, a new general acute care hospital designation, primary health service hospital, which will facilitate the diversification of the small rural hospital. The designation shall apply only to those health facilities that meet the criteria set forth in this article and which are selected for the purposes of a four-year demonstration project.

1339.5. As used in this article, unless otherwise indicated:

(a) "Active staff" means the medical staff designated by the bylaws of a primary health service hospital.

(b) "Advisory Committee on Rural Health Services" means the committee established pursuant to Section 1188.2.

(c) "Ancillary services" means laboratory and radiologic services.

(d) "Health systems agency" means a health systems agency established pursuant to Public Law 93-641.

(e) "Home health services" means health services provided in the home as a part of a continuing plan of care prescribed by a physician and surgeon.

(f) "Primary care mid-level health practitioner" means a physician assistant certified pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code and also means a registered nurse who meets the standards for a nurse practitioner adopted pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code, and also means a nurse midwife certified pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

1339.7. The state department shall administer the demonstration project authorized in this article. In administering such project, the state department shall do all of the following:

(a) Verify applicant eligibility for the project, pursuant to Section 1339.9.

(b) Establish criteria, by July 1, 1979, for the health service plan, which shall be used by general acute care hospitals for the purpose of applying for primary health service hospital designation. The department shall seek advice from health systems agencies, and the Advisory Committee on Rural Health Services in the preparation of such criteria.

(c) Review and approve a general acute care hospital's application for participation in the demonstration project based upon recommendations of a health systems agency, input from local public meetings, and the adequacy of the plan in meeting the criteria established pursuant to this section. The state department shall act upon the plan and notify the hospital of its findings within 120 days after receipt of the health systems agency's recommendations. The application shall be deemed approved if the hospital has not received notification from the state department within such 120-day period.

(d) Negotiate and grant exceptions to the licensure requirements for general acute care hospitals that are necessary to serve the purposes of this article when the granting of such exceptions do not jeopardize the health and welfare of the patients. Exceptions that are granted shall be consistent with the primary health service hospital's plan and any amendments thereto.

(e) Convene an advisory panel to review the medical-surgical and obstetrical procedures proposed as part of the primary hospital service plan and make recommendations to the state department on the medical appropriateness of those procedures according to the primary health service hospital's proposed plan. Such panel shall include, ut not be limited to, a rural hospital administrator, a rural family practice physician and surgeon, an internist, a family nurse practitioner, and a physician and surgeon from a hospital which serves as a referral center for rural hospitals.

(f) Issue primary health service hospital designations for the purposes of this demonstration project.

(g) Monitor and enforce the performance of the primary health service hospitals to assure compliance with such hospitals' plan and licensure requirements from which such hospitals are not exempt.

(h) Immediately upon the denial of an application for participation in the demonstration project, notify the applicant in writing. Within 20 days after the state department mails the notice, the applicant may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein.

(i) Compile and make available to health systems agencies and applicant hospitals, information regarding state and federal funding programs for which the primary health service hospital may be eligible, the procedures necessary to apply for such funding, and a description of how such requests may be incorporated into a primary health service hospital's plan.

(j) On behalf of the demonstration hospitals, seek appropriate federal waivers consistent with the intent of this act.

(k) Consider requests for funding made by primary health service hospitals pursuant to subdivision (k) of Section 1339.15.

1339.8. The Office of Statewide Health Planning and Development shall:

(a) Contract with health systems agencies to perform the functions specified in Section 1339.11.

(b) Review and approve the number of beds that may be designated as either skilled nursing or acute care for which application is made pursuant to subdivision (h) of Section 1339.15, based upon community need and projected utilization. Such approval shall be solely for purposes of the demonstration project authorized by this article, and for that limited purpose any changes in bed classification approved by the office shall not require a certificate of need under any provision of law, including Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code. Other than as provided in this subdivision, a primary health service hospital shall be subject to the requirements pertaining to approval of projects, as defined in Section 437.10, which are set forth in Part 1.5 (commencing with Section 437) of Division 1.

1339.9. In order to be eligible for a special designation and participation in the demonstration project pursuant to this article, a project applicant shall meet the following criteria:

(a) The project applicant shall be a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, or a group thereof.

(b) Each hospital shall either be located outside a standard

metropolitan statistical area or alternatively be at least 50 miles or two hours by authorized emergency vehicle as defined in Section 165 of the Vehicle Code, from the nearest community in which supplemental hospital services are available for life-threatening conditions, as determined by the state department.

(c) Additionally, the hospital shall meet one or more of the following criteria:

(1) Have a service area with a population of not more than 15,000 people.

(2) Have a medical staff of 10 or less physicians and surgeons on active staff who practice full-time in the community and who are authorized to admit patients to the hospital.

(3) Be the only general acute care hospital in the community.

(4) Have 50 or less licensed acute care beds.

1339.11. Upon contracting with the state department, the health systems agency shall do all of the following:

(a) Provide technical assistance to applicants in the preparation of applications pursuant to Section 1339.15.

(b) Verify the information supplied by the applicant.

(c) Within 45 days, make a recommendation, including findings, to the state department regarding the need for, and the ability of, the facility to become a primary health service hospital.

1339.13. Any general acute care hospital, or any group thereof, meeting the criteria specified in Section 1339.9 may apply to the state department for a primary health service hospital designation when a public meeting, which satisfies criteria established by the state department, including the posting of public notices, has been conducted in the community by the hospital with respect to such hospital's health service plan for the community, or when more than one hospital is involved, in the communities for which the hospitals propose to provide primary health service hospital services.

1339.15. The application shall be submitted to the state department and health systems agency and contain all of the following:

(a) Evidence of community need for crisis intervention and stabilization of victims of emergencies.

(b) Demonstration that the community in which the hospital is based would benefit from a primary health service hospital designation.

(c) Evidence that the facility is administratively efficient, or has the potential for administrative efficiency.

(d) Evidence to demonstrate that designation as a primary hospital will optimize accessibility to needed services and cost containment.

(e) Evidence of community support, including an expression of the willingness of the public to use the services and an expression of the providers to utilize the facility.

(f) A health service plan, including:

(1) A list of inpatient medical and surgical procedures to be

performed, which has been agreed to by the administrators, governing board, and the medical staff of the hospital.

(2) A commitment by the medical staff of the hospital to utilize the ancillary services of the hospital, when it is consistent with the best interests of patient care.

(3) A plan to diversify services with concentration upon primary and preventative services and estimated costs. The plan for diversification shall have as its objectives the increased accessibility to health services and cost containment. The plan shall address at a minimum:

(A) The development of outpatient ambulatory services with emphasis on the use of primary care mid-level health practitioners.

(B) Provision of in-hospital and ancillary services for publicly sponsored clinics in the health service area.

(C) The provision of home health services.

(D) The provision of outreach services.

(E) The provision of bilingual staff, appropriate to the population served.

The state department may exempt a facility from implementing the provisions specified in this section, when it can demonstrate that there is no need for the provision of such services, that the provision of such services would cause financial hardship to the facility, or that appropriate professional staff, necessary for the provision of such services, are not available.

(4) A schedule for the implementation of the service plan.

(5) A commitment to coordinate with other health programs in the hospital service area.

(g) A list of requested exemptions from administrative regulations applicable to general acute care hospitals. The list shall be developed by the hospital administrator and medical staff.

(h) Identification of the number of beds in the hospital, if any, which are intended to be used as either skilled nursing or acute care, depending upon community need and projected utilization, and a description of the way in which medical care will be provided to these patients.

(i) A description of how the facility will account for the following, for Medi-Cal cost report purposes:

(1) Direct and indirect costs associated with acute care and skilled nursing care.

(2) Charges associated with acute care and skilled nursing care.

(3) Patient stays for acute care and skilled nursing care.

(j) Description of how the facility will provide for the transfer of long-term care patients when the need for acute care beds develops.

(k) Identification of the source and amount of moneys requested by the hospital from other state health-related programs, if any, and a description of how such funds will assist the hospital in implementing its plan.

1339.17. A primary health service hospital may amend its health service plan. Such amendments shall be reviewed by the health

systems agency and are subject to final approval by the state department. Amendments may not be made to such plan solely for the purpose of circumventing sanctions administered for noncompliance with such hospital's health service plan.

1339.19. For the duration of the demonstration project period, the primary health service hospital shall operate under the following requirements:

(a) The primary health service hospital shall be subject to the regulations contained in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code that are not waived as a result of the health service plan or subsequent amendments to such plan.

(b) Services offered by the primary health service hospital shall be limited in scope according to the list of appropriate services specified in the approved application, the health service plan, and any subsequent amendments thereto.

(c) All or a portion of the health service plan shall be implemented, based upon an agreed timetable between the state department and the hospital, to the extent that state and federal requirements are waived.

(d) The hospital shall remain in compliance with its plan in accordance with subdivision (c).

(e) The hospital shall not utilize skilled nursing or intermediate care beds designated pursuant to subdivision (b) of Section 1339.8 while any skilled nursing or intermediate care facility in the hospital's community has a bed occupancy rate below 95 percent, unless such skilled nursing or intermediate care facility has refused to serve one or more indigent or Medi-Cal patients.

1339.21. (a) In accordance with the procedures prescribed in subdivision (h) of Section 1339.7, the state department shall terminate a hospital's participation in the demonstration program authorized by this article, when it finds that the hospital is not in compliance with Section 1339.19 or the welfare or safety of the patients served by the facility is adversely affected, or both.

(b) A primary service hospital may terminate its participation in the demonstration project after giving a 30-day notice to the state department.

(c) Upon termination from the project, as prescribed by this section, the hospital shall revert to the same status it held immediately preceding its participation in the demonstration project.

1339.23. The Office of the Legislative Analyst shall annually report to the Governor and the Legislature with respect to the implementation of the primary health service hospital demonstration project. The reports shall include the following:

(a) An evaluation of the effectiveness of the demonstration project in meeting the health needs of the community.

(b) An evaluation of the efficiency of the demonstration project in containing costs.

(c) A study of the impact that rate structures and reimbursement procedures of Medi-Cal, Medicare, and third-party payers have upon the financial operations of the primary health service hospitals.

(d) A determination of barriers that prevent primary health service hospitals from meeting community needs.

(e) A delineation and study of other areas of concern that may arise during the conduct of the project.

1339.25. Implementation of this article shall be consistent with federal rules and regulations in effect on January 1, 1979, and as adopted on or after such date. To the extent permitted by federal law, each department within the Health and Welfare Agency shall waive regulations and general policies and make resources available which are necessary for the administration of this article.

1339.27. This article shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated for expenditure in carrying out the provisions of Article 9 (commencing with Section 1339) of Chapter 2 of Division 2 of the Health and Safety Code during the portion of the 1978–79 fiscal year occurring on or after January 1, 1979, in accordance with the following schedule:

(a) To the State Department of Health Services	$15,000
(b) To the Office of Statewide Health Planning and Development	$10,000

CHAPTER 1333

An act to repeal and add Section 8751 to, and to amend Sections 8752 and 8753 of, the Government Code, relating to the Arts Council.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1. Section 8751 of the Government Code is repealed.

SEC. 2. Section 8751 is added to the Government Code, to read:

8751. (a) There is in the state government an Arts Council which shall be composed of eleven members. On or before January 10, 1979, the Governor shall appoint one member who shall be nominated by the Speaker of the Assembly to represent the general public, and one member who shall be nominated by the Senate Rules Committee to represent the general public. The Governor shall appoint the remaining nine members with the advice and consent of the Senate.

Prior to appointing the remaining nine members, the Governor shall request and consider recommendations from organizations representing the arts community and when making his appointments shall give consideration to the various arts disciplines and ethnic and geographic parts of the state.

(b) Five of the eleven members shall hold office for four years, four shall hold office for three years, and two shall hold office for two years. Terms of office shall be determined, by lot, at the first meeting of the council after January 1, 1979.

(c) Nothing in this section shall prevent the reappointment or replacement of any individual presently serving on the existing Arts Council unless such person has already served for more than four consecutive years as a member of the California Arts Council or Arts Commission.

(d) In January of each year, the members of the council shall select a chairperson. Members of the council shall receive one hundred dollars ($100) per meeting and shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC. 3. Section 8752 of the Government Code is amended to read:

8752. The council shall meet at the call of the chairperson not less than eight times each calendar year. Unless there are extraordinary circumstances, all meetings are to be preceded by at least eight days public notice, and shall be held in various places throughout the state so as to encourage broad and diverse attendance.

SEC. 4. Section 8753 of the Government Code is amended to read:

8753. The council shall:

(a) Encourage artistic awareness, participation and expression.

(b) Help independent local groups develop their own art programs.

(c) Promote the employment of artists and those skilled in crafts in both the public and private sector.

(d) Provide for the exhibition of art works in public buildings throughout California.

(e) Enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential.

(f) Adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to the council by this chapter.

(g) Employ such administrative, technical, and other personnel as may be necessary.

(h) Fix the salaries of the personnel employed pursuant to this chapter which salaries shall be fixed as nearly as possible to conform to the salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.

(i) Appoint advisory committees whenever necessary. Members

of an advisory committee shall serve without compensation, but each may be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

(j) Request and obtain from any department, division, board, bureau, commission, or other agency of the state such assistance and data as will enable it properly to carry on its power and duties.

(k) Hold hearings, execute agreements, and perform any acts necessary and proper to carry out the purposes of this chapter.

(*l*) Accept federal grants, for any of the purposes of this chapter.

(m) Accept only unrestricted gifts, donations, bequests, or grants of funds from private sources and public agencies, for any of the purposes of this chapter. However, the council shall give careful consideration to any donor requests concerning specific dispositions.

(n) Establish grant application criteria and procedure.

(o) Award prizes or direct grants to individuals or organizations in accordance with such regulations as the council may prescribe. In awarding prizes or directing grants, the council shall notify the offices of the legislators in whose district the recipient resides.

CHAPTER 1334

An act to add Section 306.6 to the Health and Safety Code, and to add and repeal Chapter 11 (commencing with Section 18950) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to the Office of Child Abuse Prevention, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 306.6 is added to the Health and Safety Code, to read:

306.6. There is hereby created a State Advisory Committee on Child Abuse. The membership of the committee shall be composed of seven persons who shall be representative of parents, medical and health practitioners, law enforcement personnel, social workers and other professionals interested in childrens' services. The State Child Health Board shall appoint four members to the committee, the Speaker of the Assembly shall appoint one member, the Senate Rules Committee shall appoint one member and the Governor shall appoint one member. The members shall serve at the pleasure of the appointing power.

The committee shall act in an advisory capacity to the Office of Child Abuse Prevention, established pursuant to Article 1 (commencing with Section 18950) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code concerning the performance

of that office's duties and responsibilities and to the State Child Health Board concerning the matter of child abuse.

SEC. 2. Chapter 11 (commencing with Section 18950) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 11. THE OFFICE OF CHILD ABUSE PREVENTION

Article 1. General

18950. The Legislature finds and declares that child abuse is a growing concern in this state, and that current methods of coping with child abuse problems are resulting in family breakups that are both expensive and nonproductive to the state. It is the intent of the Legislature to provide for the establishment of three pilot projects to provide for the detection and correction of the abuse or maltreatment of children who are unable to protect themselves.

In this regard, the welfare of children of this state requires the establishment of pilot projects for the prevention of child abuse.

It is the intent of the Legislature in enacting this chapter to establish three pilot project child abuse centers, one in the northern portion of the state; one in the central portion of the state; and one in the southern portion of the state. The projects established under this chapter are intended to act as coordinating bodies that offer guidelines and stimulation for services that provide for the prevention, identification, management and treatment to abused children and their parents.

18950.5. For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code shall not for that reason alone be considered an abused or neglected child.

18950.7. The provisions of this chapter shall be operative only for and during such times as federal funds are provided or made available for the purposes of such provisions.

Article 2. Definitions

18951. As used in this chapter:

(a) "Child" means an individual under the age of 18.

(b) "Child services" means services for or on behalf of children which shall include, but not be limited to, the following:

(1) Protective services.

(2) Caretaker services.

(3) Day care services which include dropoff care.

(4) Homemaker services or family aides.

(5) Counseling services.

(c) "Adult services" means services for or on behalf of a parent of a child which shall include, but not be limited to, the following:

(1) Access to voluntary placement, long or short term.

(2) Counseling services before and after a crisis.

(3) Homemaker services or family aides.

(d) "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

(1) Psychiatrists, psychologists or other trained counseling personnel.

(2) Police officers or other law enforcement agents.

(3) Medical personnel with sufficient training to provide health services.

(4) Social workers with experience or training in child abuse prevention.

(e) "Child abuse" as used in this chapter means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence.

(f) "Parent" means any person who exercises care, custody and control of the child as established by law.

Article 3. Office of Child Abuse Prevention

18952. (a) There is hereby established in the State Department of Social Services an Office of Child Abuse Prevention which shall be administered by a coordinator appointed by the Director of Social Services. The Coordinator of the Office of Child Abuse Prevention shall be a professional with recognized training and experience in child abuse prevention.

18953. The office shall employ such personnel as is necessary to carry out the provisions of this chapter, subject to civil service rules and regulations.

18954. (a) The office shall establish three regional "family crisis centers" on a pilot project basis for the prevention, identification and treatment of child abuse, one in the northern portion of the state, one in the southern portion of the state, and one in the central portion of the state The office shall determine the location of the center and

the areas to be served.

(b) The Office of Child Abuse Prevention shall seek the assistance of both public and private entities in the establishment and implementation of the pilot project centers.

(c) It shall be the responsibility of the Office of Child Abuse Prevention to organize the pilot projects. The Office of Child Abuse Prevention shall select each pilot project according to the following:

(1) Each county or counties selected by the office and wishing to have the pilot project in their jurisdiction shall submit a written proposal fully setting forth the following:

(a) The facilities to be used for such a project.

(b) The degree of cooperation between law enforcement agents and social service agencies for such a project.

(c) The number and type of personnel who will staff the project.

(d) The need for such a project as it relates to the problem areas as defined by the office.

(e) A plan for evaluating the effectiveness of the project.

(2) Upon receipt of all such proposals, the Office of Child Abuse Prevention shall select the sites for the pilot projects according to the criteria set forth above.

(d) The office shall conduct research and collect data relevant to the determination of the effectiveness of the projects.

18955. In the exercise of its authority under Section 18954 the office shall develop plans to fulfill the requirements of any federal act providing for the establishment and maintenance of pilot projects for the prevention, identification, and treatment of child abuse to facilitate the receipt and allocation of federal funds for planning, research, demonstration and special project grants. The office shall submit its recommendations concerning applications for federal funds to the Health and Welfare Agency to be forwarded to the appropriate federal agency.

18955.1. It is the intent of the Legislature that in establishing the three pilot projects pursuant to Section 18954, the Office of Child Abuse Prevention shall make every attempt to qualify such projects for federal funding under subsection (a) of Section 4 of Public Law 93-247. To that extent, should any provisions of this chapter prevent such federal funding for these three pilot projects, such provisions of this chapter shall be rendered inoperative.

18956. The office shall report to the Legislature and Governor on the pilot projects on January 1, 1982, and thereafter every even-numbered year.

18957. The Office of Child Abuse Prevention may by contract with other public or private entities establish "family crisis centers" on a pilot project basis other than those required by this chapter when adequate funds are available for such purposes.

18958. The Office of Child Abuse Prevention shall apply for federal funding under subsection (b) of Section 4 of Public Law 93-247 for the administration of its functions under this chapter. The office shall use such funds to: (1) develop and establish training

programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse; (2) provide statewide coordination of general information and education in child abuse prevention; (3) regulate the pilot projects established pursuant to Section 18954 and utilize that data received from the pilot projects pursuant to subsection (g) of Section 18960 so as to obtain more accurate statewide data on child abuse prevention; (4) assist and provide funds for the coordination of child abuse prevention programs by counties as set forth in Section 18954; and (5) develop and establish other innovation programs in child abuse prevention where the office finds a need for such programs.

Article 4. Pilot Projects

18960. The pilot projects established pursuant to Section 18954 shall stimulate the development and the coordination of all necessary programs and services relevant to the prevention, identification, management, and treatment of child abuse. The following services, among others, may be included:

(a) Coordination of the identification and reporting of all instances of child abuse within the county or counties that are serviced by the pilot projects.

(b) Provision of direct family counseling to all members of a family in which child abuse is present where such services are not made available by the county or counties serviced by the pilot projects.

(c) Provision of homemaker or family aide services on a temporary basis to a family in which child abuse is present where such services are not made available by the county or counties serviced by the pilot projects.

(d) Establishment of a 24-hour "hotline" telephone service, to be available to any child, parent, or other resident of the county or counties served by the pilot projects who wishes to ask for assistance or information, or to make a report with regard to child abuse. Such "hotline" service shall be staffed by persons who, in the opinion of the pilot project, have appropriate training to provide such services and shall be provided by the pilot project only where such a service is not provided by the county or counties serviced by the pilot projects.

(e) Encouragement of and arrangement of voluntary placement of a child outside the home when both parents and child agree to a "cooling off" period, and when such outside voluntary placement is available and advisable provided that:

(1) Such voluntary placement should be in the vicinity of the parents' current home so that visiting and other parental-child interaction can be facilitated.

(2) No child shall be placed in any institution maintained by the

county or state for the detention or housing of any minor who comes within or who is alleged to come within the provisions of Section 601 or 602.

(3) No placement shall be deemed voluntary nor shall any voluntary placement be made when the parent is threatened with prosecution or removal of the child pursuant to Section 600 if they do not consent to the placement.

(4) A child agreeing to such a placement shall be of a mental age to make a reasonable, rational decision and shall be without undue influence or fear of reprisal from either parents or any member of the multidisciplinary family crisis teams or any other adult.

(f) Establishment of multidisciplinary family crisis teams trained and available to accompany law enforcement agents on any original or followup visits in instances of abuse. These teams shall attempt to insure that each family is aware of all public social services that are available within the vicinity of their residence and that the family has access to such facilities.

(g) Maintenance of a clearinghouse index for the county or counties serviced by the pilot project in order to insure that current records are maintained with regard to cases of dependency avoidance and child abuse. Such collection data shall be forwarded to the Office of Child Abuse Prevention.

(h) Provision of professional child mental health services on a part-time basis to licensed private facilities providing care for children in instances where such facilities are financially unable to provide full-time professional child mental health services. The Office of Child Abuse Prevention shall be responsible for the costs of such services and shall establish the procedure for such facilities to apply for the services.

(i) Provision of parent education and training services to:

(1) Parents of families in which child abuse is present.

(2) Prospective parents.

(3) Parents, generally.

Such services for parents of families in which child abuse is found, are to be supplementary or adjunctive to any other treatment and services. Such services for any other parents are primarily to be child abuse prevention services.

SEC. 3. The Office of Child Abuse Prevention shall be funded pursuant to the Federal Child Abuse Prevention and Treatment Act.

SEC. 4. There is appropriated from the General Fund one hundred thousand dollars ($100,000) to the State Department of Social Services for allocation of funds to the Office of Child Abuse Prevention during the 1978–79 fiscal year.

SEC. 5. Section 2 of this act shall remain in effect only until December 31, 1981, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1981, deletes or extends such date.

SEC. 6. The provisions of Sections 1, 2, and 3 this act shall become operative December 31, 1979.

CHAPTER 1335

An act to add Section 104.5 to the Health and Safety Code, relating to the State Department of Health Services.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 104.5 is added to the Health and Safety Code, to read:

104.5. The Legislature finds that many programs mandated to the State Department of Health Services are hindered by the length of time required for the state process to execute approved contracts and payment of vendor claims. Such programs include, but are not limited to, community hypertension, rural health services development, family planning, genetic counseling, supplemental feeding program for women, infants and children, sickle cell disease and newborn screening projects. This hardship is particularly felt by new or small community-based public or private nonprofit agencies with modest reserves and cash-flow problems. It is the intent of the Legislature that advance payment authority be established for the State Department of Health Services in order to alleviate such problems for those types of contractors to the extent possible.

Notwithstanding any other provision of law, the State Department of Health Services may, to the extent funds are available, provide for advance payments for services to be performed under any contract, with a total annual contract amount of two hundred thousand dollars ($200,000) or less, which the state department determines has been entered into with any small, community-based public or private nonprofit agency with modest reserves and potential cash-flow problems. Such programs include, but are not limited to, the following:

(a) Community hypertension.

(b) Genetic disease programs.

(c) Supplemental feeding programs for women, infants and children.

(d) Sickle cell disease.

(e) Newborn screening projects.

(f) Rural health programs.

(g) Indian health programs.

No advance payment or aggregate of advance payments made pursuant to this section shall exceed 25 percent of the total annual contract amount. No advance payment should be made pursuant to this section if the applicable federal law prohibits advance payment.

CHAPTER 1336

An act to amend Section 2460 of the Business and Professions Code, and to amend Section 26693 of the Health and Safety Code, relating to devices, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 2460 of the Business and Professions Code is amended to read:

2460. The amount of fees prescribed in connection with dispensing opticians' certificates is as follows:

(a) The application fee is fifty dollars ($50), thirty-five dollars ($35) of which may be refunded upon refusal or denial of a certificate.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than one hundred and fifty dollars ($150) and not less than one hundred dollars ($100).

(d) The delinquency fee is fifteen dollars ($15).

SEC. 2. Section 26693 of the Health and Safety Code is amended to read:

26693. The licensing provisions of this chapter shall not apply to any of the following:

(a) Any pharmacy which maintains establishments in conformance with provisions of the Pharmacy Law, Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, regulating the practice of pharmacy, and which is regularly engaged in dispensing prescription drugs or devices, upon prescriptions of any person licensed to administer such drugs or devices to patients under the care of such person in the course of his professional practice, and which does not manufacture, prepare, propagate, compound, or process drugs or devices for sale other than in the regular course of his business of dispensing or selling drugs or devices at retail.

(b) Any pharmacy which solely engages in providing drugs or devices to a person licensed by law to administer such drug or device for his use in the course of his professional practice.

(c) Any pharmacy which solely provides drugs or devices to another pharmacy in order to meet a temporary inventory shortage.

(d) Any person who is licensed by law to prescribe or administer

drugs or devices and who manufactures, prepares, propagates, compounds, or processes drugs or devices solely for use in the course of his professional practice.

(e) Any person who manufactures, prepares, propagates, compounds, or processes any drug or device solely for use in nonclinical research, teaching, or chemical analysis and not for sale.

(f) Any wholesaler, as defined in Section 4038 of the Business and Professions Code.

(g) Any such other class of persons as the department may by regulation exempt from the application of this article upon a finding that licensing by such class of persons in accordance with this article is not necessary for the protection of the public health.

(h) Any registered dispensing optician licensed pursuant to the provisions of Chapter 5.5 (commencing with Section 2550) of Division 2 of the Business and Professions Code, who is regularly engaged in dispensing or selling prescription lenses and frames, and not engaged in the manufacture, preparation, processing or assembling of lenses or frames for sale other than in the regular course of his business of dispensing or selling lenses or frames at retail.

CHAPTER 1337

An act to amend Section 441.5 of, and to add Sections 441.95 and 441.96 to, the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 441.5 of the Health and Safety Code is amended to read:

441.5. The members of the commission shall be appointed by the Governor for a term of four years and shall hold office until the appointment and qualification of their successors. Of the members first appointed by the Governor, three shall hold office for four years, two shall hold office for three years, and two shall hold office for two years. Of the eight new members first appointed pursuant to Section 441.3 on and after July 1, 1975, three shall hold office for four years, three shall hold office for three years, and two shall hold office for two years. Thereafter, each member appointed by the Governor shall hold office for four years. In making the first appointments to these offices the Governor shall designate the term to which each such member is appointed.

Vacancies shall be filled by appointment for the unexpired term. Every appointment made by the Governor pursuant to this section

shall be subject to the advice and consent of a majority of the members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim appointment which shall expire on the last day of the next regular session of the Legislature or upon the appointment of a successor in accord with the provisions of this section, whichever first occurs. The Governor may remove any member of the commission disqualified by reason of Section 441.4, or for neglect of any duty required by law, or for incompetency, or dishonorable conduct.

If any member fails to attend three consecutive scheduled meetings of the commission without good cause, his or her membership shall be terminated and the vacancy filled in the same manner as the original appointment.

No member shall be appointed to a position on the commission for more than three consecutive full terms.

SEC. 2. Section 441.95 is added to the Health and Safety Code, to read:

441.95. The commission shall:

(a) Be responsible for establishing an aggregate annual expenditure estimate covering all health facilities in the state as a whole and in each health systems area in California. The estimate projected shall be established after public hearings conducted pursuant to the Administrative Procedure Act (commencing with Section 11370 of the Government Code).

The estimate shall be, in the judgment of the commission, an objective determination of the balance between the projection of patient service needs and the cost of services to meet these needs. Expenditure estimates shall be used as guidelines and addressed in the Health Systems Agency plans and the state plan. The Advisory Health Council shall approve the guidelines.

(b) Be responsible for developing and, after public hearings, establishing standards of effectiveness for health facilities which include, but are not limited to, creating a foundation for planning which takes into account in health planning the good effect of efficient performance and the bad consequences of ineffective performance. Health systems agencies' plans and the state plan shall take these standards into account in planning. The standards shall be approved by the Advisory Health Council.

(c) Submit a report to the Legislature no later than March 1 of each year setting forth the annual expenditure estimate and the standards of effectiveness developed pursuant to subdivisions (a) and (b).

SEC. 3. Section 441.96 is added to the Health and Safety Code, to read:

441.96. The State Department of Health Services, the Department of Finance, and the Legislature shall take into consideration the aggregate annual expenditure estimate developed pursuant to Section 441.95 when developing and approving the annual Medi-Cal budget.

SEC. 4. An amount equal to the unencumbered balance as of June 30, 1978, of Item 282 of the Budget Act of 1977 is hereby appropriated from the California Health Facilities Commission Fund for the support of the California Health Facilities Commission in augmentation of Item 294 of the Budget Act of 1978.

CHAPTER 1338

An act to add Section 1420.3 to the Labor Code, relating to licensing boards.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. Section 1420.3 is added to the Labor Code, to read:

1420.3. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing which has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, age, medical condition, or physical handicap, unless such practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on such examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by such examination or by a license issued in reliance on such examination or qualification.

(b) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, sex, or age, or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for.

(c) It is unlawful for a licensing board to discriminate against any person because such person has filed a complaint, testified, or assisted in any proceeding under this part.

(d) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of such applications.

(e) As used in this section, "licensing board" means any state board, agency, or authority in the Department of Consumer Affairs which has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

CHAPTER 1339

An act making an appropriation for the state park system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for expenditure for the development and restoration of the John Marsh Home near Brentwood in the County of Contra Costa. None of the funds appropriated in this section may be encumbered unless and until all of the following occur:

(1) The John Marsh Home and approximately 5.5 acres of land surrounding it and improvements thereon are donated to the state for the state park system.

(2) The Contra Costa County Flood Control and Water Conservation District opens the Marsh Creek Reservoir to the public for fishing.

(3) The S. H. Cowell Foundation, a California nonprofit corporation, donates at least 7 acres of the meadowlands adjacent to the John Marsh Home to the state for the state park system.

The state shall operate the John Marsh Home for a period of five years. Within that period of time an agreement to operate and maintain the project shall be entered into with the County of Contra Costa or another entity of local government.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Various public agencies and private foundations have donated money for the restoration of the John Marsh Home, conditioned on completion of the restoration by certain dates in the near future and

in one instance requiring commencement of work by March 17, 1978, thus necessitating an immediate determination as to who is responsible for commencing the restoration project. Therefore, it is necessary that this act take effect immediately.

CHAPTER 1340

An act making an appropriation for the study of riparian habitat.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the California Environmental Protection Program Fund to the Department of Fish and Game for the purposes of studying riparian habitat as a supplement to the department's update of the 1965 Fish and Wildlife Plan, in accordance with the following schedule:

(a) The sum of seventy-five thousand dollars ($75,000) during the 1978–1979 fiscal year.

(b) The sum of seventy-five thousand dollars ($75,000) during the 1979–1980 fiscal year.

SEC. 2. Funds made available by this act shall be expended for the study of riparian habitat in the great central valley and in the California desert. As used in this section, "great central valley" means the Sacramento, the San Joaquin, and the Tulare Lake drainage basins as delineated in the operating understanding between the State Water Resources Control Board and the Department of Water Resources regarding basin planning boundaries, effective October 21, 1976; except, however, that for purposes of this act the great central valley shall be deemed to extend up the watercourses to a point no higher in altitude than the upper limit of the blue oak, digger pine forest as delineated on the map entitled "Natural Vegetation of California" as included in the book titled "Terrestrial Vegetation of California," edited by Michael G. Barbour and Jack Major and published by the Wiley Interscience Company of New York City. As used in this section, "California desert" means the South Lahonton and the Colorado River basins as delineated in the operating understanding between the State Water Resources Control Board and the Department of Water Resources regarding basin planning boundaries, effective October 21, 1976.

CHAPTER 1341

An act relating to the transfer of state lands to the City of Sacramento for the construction of an historical museum and to the County of Santa Clara for park, recreational, and historical purposes.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The Director of Parks and Recreation shall take all steps necessary and proper to obtain the approval of the United States Secretary of Housing and Urban Development (HUD) for the construction of an historical museum on the lands described in Section 2. The City of Sacramento shall make a good faith effort to comply with any HUD requirements imposed to facilitate the grant of land described in Section 2.

SEC. 2. Within 60 days after the effective date of this act or within 60 days after obtaining the approval described in Section 1, whichever is later, the Director of General Services shall grant to the City of Sacramento all of the state's interest in the following property:

All that portion of that certain Record of Survey recorded in Book 26 of Surveys, Map No. 18 City of Sacramento, California, more particularly described as follows:

Beginning at a point from which the southeasterly corner of said survey bears south 71° 31' 30" E 475.59 feet, said line also being the north r/w line of "I" Street, thence from said point of beginning N 18° 28' 33" E 66.00 feet, thence S 71° 31' 30" E 24.00 feet, thence N 18° 28' 30" E 17.00 feet, thence S 71° 31' 30" E 113.00 feet, thence S 18° 28' 30" W 83.00 feet, thence N 71° 31' 30" W 137.00 feet along said north r/w line of "I" Street to the point of beginning. Containing 10,963 s.f., more or less, or .25 acres, more or less.

SEC. 3. In connection with the grant described in Section 2, the Director of General Services shall obtain and pay for title insurance reasonably required by bond counsel and financial consultants for the construction of the historical museum described in Section 4 and shall also take all steps necessary to grant marketable title to the interest in property described in Section 2.

SEC. 4. Within five years after the granting of the interest in property described in Section 2, the City of Sacramento may commence construction or cause construction to be commenced on such property for an historical water works building for use as an historical museum subject to the following conditions:

(a) That the building be a reconstruction of the historic water works building, and its exterior design shall be approved by the Department of Parks and Recreation; provided, however, that any plans submitted shall be deemed approved if the department has not

approved or denied the submitted plans within 40 days after receipt.

(b) That no other building or permanent structure be constructed on the site within 20 feet of the proposed building, nor within 16 feet of the proposed railroad turntable apron, nor 16 feet from the existing railroad tracks.

(c) The City of Sacramento shall provide to the Department of Parks and Recreation, cash, improvements, or land within Old Sacramento equal in value to the fair market value of the interest in property granted to the City of Sacramento pursuant to Section 2. Such value shall be established by an appraisal mutually acceptable to the Director of General Services, the Director of Finance, and the City of Sacramento.

The provisions of this section shall not be construed to obligate the Department of Parks and Recreation to expend any funds for the construction or maintenance of this historical museum.

SEC. 5. If the City of Sacramento elects not to commence construction of an historical museum in accordance with Section 4, the interest in property described in Section 2 shall revert to the state.

SEC. 6. The Director of General Services, with the approval of the Director of Parks and Recreation and the State Public Works Board, is authorized to convey to the County of Santa Clara for park, recreational, and historical purposes, approximately 470 acres of state-owned land in the Coyote River Parkway. Such transfer or conveyance may be at no cost to the county. The transfer authorized in this section shall provide that if the land is not used for park, recreational, and historical purposes, the land shall revert to the state.

SEC. 7. As to any property conveyed pursuant to this act, the Director of General Services shall reserve to the state all mineral deposits, as defined by Section 6407 of the Public Resources Code.

CHAPTER 1342

An act making an appropriation for the state park system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. The sum of forty-five thousand dollars ($45,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for a study of the feasibility of acquiring the railroad right-of-way from Old Sacramento in the City of Sacramento to the southern boundary of the City of Isleton for the state park system. Such study shall be submitted to the Governor and to the

Legislature not later than six months following the effective date of this act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the urgently needed feasibility study required by this act may be completed and submitted to the Governor and to the Legislature for further action as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1343

An act making an appropriation for a pilot program to develop an environmental information needs system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1978. Filed with Secretary of State September 28, 1978.]

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

SECTION 1. (a) The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the California Environmental Protection Program Fund in the State Treasury to the Environmental Data Center, Office of Planning and Research for expenditure, during the 1978–79 and 1979–80 fiscal years, as a grant to the County of Ventura, and to any other county applying for such grant, to conduct a pilot program to develop an environmental decision-oriented information needs system utilizing computer data to speed the environmental decisionmaking process required by the California Environmental Quality Act (commencing with Section 21000 of the Public Resources Code) and other laws providing for the collection, storage, and transmittal of environmental information; provided, that such counties shall submit detailed work programs and budgets.

(b) The pilot program shall develop an inventory of environmental data needs of county agencies and develop an inventory of data requirements associated with state and federal permits. The design of the data system shall be coordinated with the Environmental Data Center, Office of Planning and Research to ensure compatibility with its environmental resource inventory system.

(c) Counties receiving grant moneys shall render a progress report on the pilot program to the Environmental Data Center, Office of Planning and Research not later than six months from the date of the receipt of grant moneys and a final report not later than one year from such date.

SEC. 2 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are·

In order that this vital program may be commenced as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1344

An act to amend Sections 5626 and 5627 of the Public Resources Code, relating to the Roberti-Z'berg Urban Open-Space and Recreation Program, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 28, 1978]

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

SECTION 1 Section 5626 of the Public Resources Code is amended to read

5626 (a) The property acquired or developed pursuant to this chapter shall be used by the grant recipient only for the purpose for which the grant moneys were requested and no other use of the area shall be permitted except by the specific act of the Legislature. Any project funded with grant moneys received pursuant to this chapter shall conform to the recreation element of any applicable city or county general plan

(b) Notwithstanding Item 271 of the Budget Act of 1976, Item 227 of the Budget Act of 1977, Item 222 of the Budget Act of 1978, Section 5627, 5628, 5629, or 5630, or any other provisions of law, jurisdictions eligible to receive need basis or block grant moneys pursuant to this chapter shall have one year from the effective date of the Budget Act of 1978 appropriating grant moneys to apply for such grant moneys. Such moneys from Item 222 of the Budget Act of 1978 that are not applied for during the one-year period shall be available to the department pursuant to subdivision (b) of Section 5630 for allocation by the department during the succeeding fiscal year for grants to cities and recreation and park districts in urbanized areas on a project-by-project basis and on the basis of need. Grant moneys shall be expended by the recipient of such moneys within three years of the date of approval by the director of the application for such moneys If such moneys are not expended within the three-year period, the moneys shall revert to the state

(c) The legal counsel of the grant recipient shall certify to the department that the grant recipient has met, or will meet, all federal, state, and local environmental, public health, relocation, affirmative action, and clearinghouse requirements and all other appropriate

codes, laws, and regulations prior to the expenditure of the grant funds

SEC. 2. Section 5627 of the Public Resources Code is amended to read

5627 (a) Grant moneys received pursuant to this chapter shall be expended for high-priority projects that satisfy the most urgent park and recreation needs, with emphasis on unmet needs in the most heavily populated areas within each jurisdiction.

(b) Notwithstanding Item 222 of the Budget Act of 1978, Section 5627, 5628, 5629, or 5630, or any other provisions of law, up to 25 percent of need basis and block grant moneys appropriated by Item 222 of the Budget Act of 1978 may be expended by the recipient for the operation and maintenance of recreational lands and facilities that are acquired or developed with such grant moneys; provided, that such moneys may be used only to subvent operation and maintenance costs not fully compensated for by operating revenues. For the purposes of this subdivision "operation and maintenance costs" are limited to the direct costs of operating and maintaining recreational lands and facilities and in no case shall include administrative costs Recipients of Roberti-Z'berg Urban Open-Space and Recreation Program Act grant funds that are to be used for operation and maintenance shall examine alternative methods to finance the operation and maintenance of recreational lands and facilities.

(c) Grants to cities, counties, and districts pursuant to this chapter shall be on the basis of 75 percent state money and 25 percent local matching money for the project. Grants for acquisition shall be matched only by money or property donated to be part of the acquisition project. Grants for development may be matched by monetary contributions or, if nonmonetary contributions, as provided in regulations and standards which shall be established by the director after a public hearing

(d) The grant recipient shall certify to the department that there is available, or will become available prior to the commencement of any work on the project for which application for a grant has been made, matching money from a nonstate source. Such certification of the source and amount of such funds shall be set forth in the application for a grant submitted to the department

(e) Criteria, rules, and procedures for operation or maintenance projects and expenditures shall be established by the director after a public hearing Such rules shall ensure that Roberti-Z'berg Urban Open-Space and Recreation Program Act funds shall be used to supplement rather than to supplant local operation and maintenance revenues that are to be used for recreational facilities and lands.

SEC 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to permit the expenditure of 25 percent of grant moneys

under the Roberti-Z'berg Urban Open-Space and Recreation Program Act for the operation and maintenance of recreational lands and facilities for the 1978–79 fiscal year, it is necessary that this act take effect immediately

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CHAPTER 1345

An act to amend Section 5328 of the Welfare and Institutions Code, relating to mental and developmental disabilities.

[Approved by Governor September 28, 1978 Filed with Secretary of State September 29, 1978]

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

SECTION 1. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4001), Division 4 1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care;

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(d) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except

that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research. Such rules shall include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge

of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

The amendment of subdivision (d) of this section enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 1346

An act to amend Section 6069 of the Business and Professions Code, and Sections 7465, 7470, 7473, 7474, 7475, 7476, 7480, and 12586 of the Government Code, relating to financial records.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 6069 of the Business and Professions Code is amended to read·

6069. (a) Every member of the State Bar shall be deemed by operation of this law to have irrevocably authorized the disclosure to the State Bar and the Supreme Court pursuant to Section 7473 of the Government Code of any and all financial records held by financial institutions as defined in subdivisions (a) and (b) of Section 7465 of the Government Code pertaining to accounts which the member must maintain in accordance with the Rules of Professional Conduct, provided that no such financial records shall be disclosed to the State Bar without a subpoena therefor having been issued pursuant to Section 6049 of this code, and further provided that the board of governors shall by rule provide notice to the member similar to that

notice provided for in subdivision (d) of Section 7473 of the Government Code Such notice may be sent by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar.

The State Bar shall, by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar, notify its members annually of the provisions of this subdivision (a).

(b) With regard to the examination of all financial records other than those mentioned in subdivision (a) of this section, held by financial institutions as defined in subdivisions (a) and (b) of Section 7465 of the Government Code, no such financial records shall be disclosed to the State Bar without a subpoena therefor having been issued pursuant to Section 6049 of this code and the board of governors shall by rule provide for service of a copy of the subpoena on the customer as defined in subdivision (d) of Section 7465 of the Government Code and an opportunity for the customer to move the board or committee having jurisdiction to quash the subpoena prior to examination of the financial records. Review of the actions of the board or any committee on such motions shall be had only by the Supreme Court in accordance with the procedure prescribed by the court. Service of a copy of any subpoena issued pursuant to this subdivision (b) may be made on a member of the State Bar by mail addressed to the member's current office or other address for State Bar purposes as shown on the member's registration records of the State Bar If the customer is other than a member, service shall be made pursuant to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, except that service may be made by an employee of the State Bar.

(c) For purposes of this section, "member of the State Bar" or "member" means every member of the State Bar, law firm in California of which a member of the State Bar is a member, and law corporation within the meaning of Article 10 of Chapter 4 of Division 3 of this code.

SEC. 1.5. Section 7465 of the Government Code is amended to read:

7465. For the purposes of this chapter:

(a) The term "financial institution" includes state and national banks, state and federal savings and loan associations, trust companies, industrial loan companies, and state and federal credit unions Such term shall not include a title insurer while engaging in the conduct of the "business of title insurance" as defined by Section 12340.3 of the Insurance Code, an underwritten title company, or an escrow company

(b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.

(c) The term "person" means an individual, partnership, corporation, association, trust or any other legal entity.

(d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.

(e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.

(f) The term "local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(g) The term "supervisory agency" means any of the following:

(1) The State Banking Department.

(2) The Department of Savings and Loans.

(3) The Department of Corporations.

(4) The State Controller.

(5) The Administrator of Local Agency Security.

(h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

(i) The term "subpoena" includes subpoena duces tecum.

SEC. 2. Section 7470 of the Government Code is amended to read:

7470. (a) Except as provided in Section 7480, no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to such request and:

(1) Such customer has authorized disclosure to such officer, employee or agent of such state or local agency or department thereof in accordance with Section 7473; or

(2) Such financial records are disclosed in response to an administrative subpoena or summons which meets the requirements of Section 7474; or

(3) Such financial records are disclosed in response to a search warrant which meets the requirements of Section 7475; or

(4) Such financial records are disclosed in response to a judicial subpoena or subpoena duces tecum which meets the requirements of Section 7476

(b) Nothing in this section or in Sections 7473, 7474, 7475, and 7476 shall require a financial institution to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein provided only that the customer authorization,

administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution pursuant to such sections shows compliance on its face

(c) The financial institution shall maintain for a period of five years a record of all examinations or disclosures of the financial records of a customer pursuant to this chapter, including the identity of the person examining the financial records, the state or local agency or department thereof which he represents, and a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certification received pursuant to subdivision (b) of Section 7480. Any record maintained pursuant to this subdivision shall be available, within five days of request, during normal business hours for review by the customer at the office or branch where the customer's account was located when examined or disclosed. A copy of such record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

(d) Except as provided in Section 7480, this section is not intended to preclude a state or local law enforcement agency from initiating contact with a financial institution if there is reason to believe that the institution is a victim of a crime After such contact by a law enforcement agency, if the financial institution believes it is a victim of a crime, it may, in its discretion, disclose relevant financial records pursuant to subdivision (c) of Section 7471.

SEC. 3 Section 7473 of the Government Code is amended to read·

7473 (a) A customer may authorize disclosure under paragraph (1) of subdivision (a) of Section 7470 if those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer.

(1) Authorizes such disclosure for a period to be set forth in the authorization statement;

(2) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(3) Identifies the financial records which are authorized to be disclosed.

(b) No such authorization shall be required by a financial institution as a condition of doing business with such financial institution

(c) Any officer, employee or agent of a state or local agency seeking customer authorization for disclosure of customer financial records shall include in the form which the customer signs granting authorization written notification that the customer has the right at any time to revoke such authorization, except where such authorization is required by statute.

(d) (1) An agency or department examining the financial records of a customer pursuant to this section shall notify the customer in writing of such examination within 30 days of the agency or department's receipt of any of the customer's financial records,

except that by application to a judge of a court of competent jurisdiction in the county in which the records are located upon a showing of good cause to believe that disclosure would impede the investigation, such notification requirements may be extended for two additional 30-day periods. Thereafter, by application to a court upon a showing of extreme necessity for nondisclosure, such notification requirements may be extended for three additional 30-day periods At the end of that period or periods the agency or department shall inform the customer that he has the right to make a written request as to the reason for such examination. Such notice shall specify the financial records which were examined and, if requested, the reason for such examination.

(2) Wherever practicable, an application for an additional extension of notification time shall be made to the judge who granted the first extension of notification time. In deciding whether to grant an extension of the notification time, the judge shall endeavor to provide the customer with prompt notification, consistent with the purpose of this chapter, and on the presumption that prompt notification is the rule and delayed notification the exception.

SEC 4 Section 7474 of the Government Code is amended to read.

7474 (a) An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (2) of subdivision (a) of Section 7470 pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution only if:

(1) The person issuing such administrative summons or subpoena has served a copy of the subpoena or summons on the customer pursuant to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, which copy may be served by an employee of the state or local agency or department thereof; and

(2) The subpoena or summons includes the name of the agency or department in whose name the subpoena or summons is issued and the statutory purpose for which the information is to be obtained, and

(3) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena.

(b) (1) In issuing an administrative subpoena or summons pursuant to subdivision (a), the Attorney General or the Commissioner of Corporations pursuant to the enforcement of statutes within his jurisdiction, or the district attorney of any county in connection with investigations of violations of antitrust law as authorized by Section 16759 of the Business and Professions Code, may petition a court of competent jurisdiction in the county in which the records are located, and the court, upon a showing of a reasonable inference that a law subject to the jurisdiction of the petitioning agency has been or is about to be violated, may order that

service upon the customer pursuant to paragraph (1) of subdivision (a) and the 10-day period provided for in paragraph (3) of subdivision (a) be waived or shortened. For the purpose of this subdivision, an "inference" is a deduction that may reasonably be drawn by the Attorney General, the Commissioner of Corporations, or the district attorney from facts relevant to the investigation.

(2) Such petition may be presented to the court in person or by telephoned oral statement which shall be recorded and transcribed. In the case of telephonic petition, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court.

(3) Where the court grants such petition, the court shall order the petitioning agency to notify the customer in writing of the examination of records within a period to be determined by the court but not to exceed 60 days of the agency's receipt of any of the customer's financial records The notice shall specify the information otherwise required by paragraph (2) of subdivision (a), and shall also specify the financial records which were examined pursuant to the administrative subpoena or summons. Upon renewed petition, the time of notification may be extended for an additional 30-day period upon good cause to believe that such notification would impede the investigation Thereafter, by application to a court upon a showing of extreme necessity for continued withholding of notification, such notification requirements may be extended for three additional 30-day periods.

(4) The Attorney General shall not provide financial records obtained pursuant to the procedure authorized in this subdivision to a local law enforcement agency unless (i) that agency has independently obtained authorization to receive such financial records pursuant to the provisions of this chapter, or (ii) he obtains such records in an investigation conducted wholly independently of the local agency and not at its instigation or request.

(c) Except as provided in this subdivision, nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena A court may order a financial institution to withhold notification to a customer of the receipt of an administrative summons or subpoena when the court issues an order pursuant to subdivision (b) and makes a finding that notice to the customer by the financial institution would impede the investigation.

(d) If a customer files a motion to quash an administrative subpoena or summons issued pursuant to subdivision (a), such proceedings shall be afforded priority on the court calendar and the matter shall be heard within 10 days from the filing of the motion to quash.

SEC. 5 Section 7475 of the Government Code is amended to read:

7475 An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph

(3) of subdivision (a) of Section 7470 only if he obtains a search warrant pursuant to Chapter 3 (commencing with Section 1523) of Title 12 of Part 2 of the Penal Code. Examination of financial records may occur as soon as the warrant is served on the financial institution. Nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of a search warrant, unless a court orders the financial institution to withhold notification to the customer upon a finding that such notice would impede the investigation.

The financial records sought pursuant to this section by a search warrant shall be made available to an officer, employee, or agent of a state or local agency or department thereof within 10 days after the warrant is served on the financial institution unless prior to the expiration of such 10 days such institution makes a written showing to the court that issued the warrant that the records cannot reasonably be made available within the 10 days and that an additional period of time is required to make the records available. Upon such showing the court shall extend the period of time within which the records must be made available to whatever period of time is reasonably necessary

SEC 6 Section 7476 of the Government Code is amended to read

7476 (a) Except as provided in subdivisions (b) and (c), an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum only if:

(1) The subpoena or subpoena duces tecum is issued and served upon the financial institution and the customer in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure and the requirements of paragraph (2) or (3) have been met In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena or subpoena duces tecum the court shall, prior to turning over any records to the agency, and upon good cause shown, make a finding that due diligence has been exercised by the agency in its attempt to effect such service; and

(2) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena If testimony is to be taken, or financial records produced, before a court, the 10-day period provided for in this subdivision may be shortened by the court upon a showing of good cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened. The motion to quash the subpoena must be made, whenever practicable, in the judicial proceeding pending before the court, or

(3) A judge or magistrate in a judicial proceeding to which the customer is a party rules that the subpoena should not be quashed. Nothing in this paragraph is intended to preclude appellate remedies

which may be available under existing law.

(b) (1) A grand jury, upon resolution adopted by a majority of its members, may obtain financial records pursuant to a judicial subpoena or subpoena duces tecum which, upon a written showing to a judge of the superior court that there exists a reasonable inference that a crime within the jurisdiction of the grand jury has been committed and that the financial records sought are reasonably necessary to the jury's investigation of that crime, is personally signed and issued by a judge of the superior court in accordance with Section 939.2 of the Penal Code, and:

(i) The subpoena is issued and served upon the financial institution and the customer and 10 days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena or subpoena duces tecum the court shall, prior to turning over any records to the grand jury, and upon good cause shown, make a finding that due diligence has been exercised by the grand jury in its attempt to effect such service; the 10-day period provided for in this subparagraph may be shortened by the court upon a showing of good cause; the court shall direct that all reasonable measures be taken to notify the customer within the time so shortened, the motion to quash the subpoena must be made wherever practicable before the judge who issued the subpoena;

(ii) A judge rules in a judicial proceeding to which the customer is a party that the subpoena should not be quashed. Nothing in this subparagraph is intended to preclude appellate remedies which may be available under existing law; or

(iii) A court orders the financial institution and the grand jury to withhold notification to the customer for 30 days from the date of receipt of the judicial subpoena or subpoena duces tecum after making a finding upon a written showing that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. The withholding of such notification may be extended for additional 30-day periods up to the end of the term of the grand jury if a court makes a finding upon a written showing, at the time of each extension, that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. Whenever practicable, any application for an extension of time shall be made to the judge who issued the judicial subpoena or subpoena duces tecum In deciding whether to grant an extension of the notification time, the judge shall endeavor to provide the customer with prompt notification, consistent with the purpose of this act, and on the presumption that prompt notification is the rule and delayed notification the exception.

(2) For the purpose of this subdivision, an "inference" is a deduction that may be reasonably drawn by the grand jury from facts

relevant to the investigation.

(3) If the requirements of subparagraph (i) or (ii) of paragraph (1) are met, the judge shall order the grand jury to notify the customer in writing within 60 days of the issuance of the subpoena or subpoena duces tecum; provided, however, that the judge may shorten the 60-day period. If the requirements of subparagraph (iii) of paragraph (1) are met, the judge shall order the grand jury to notify the customer in writing when the financial institution is no longer prohibited from notifying the customer. The notice shall specify the financial records which were examined and the reason for such examination.

(4) Any showing which is required to be made pursuant to this subdivision, as well as the court record of any finding made pursuant to such showing, shall be sealed until one person named in the indictment to which the showing related has been arrested, or until the end of the term of the grand jury, if no indictment to which the showing relates has been returned. Provided, however, that a court may unseal a showing and court record relating thereto on a written showing of good cause and upon service of such showing upon the grand jury and the expiration of 10 days after service without the grand jury giving notice to the court that the jury moves for an in camera hearing regarding the existence of good cause. If notice is given by the grand jury the court shall conduct an in camera hearing upon such terms and with such persons present as the court deems proper. At the conclusion of the in camera hearing, the court, if it finds that good cause exists, may order the showing and court record relating thereto to be unsealed upon such terms as it deems proper.

(c) In any criminal case in which an accusatory pleading is on file charging a violation of Section 476a of the Penal Code, an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum to be returned to the court issuing the subpoena or the subpoena duces tecum only if:

(1) The financial records to be produced are of the bank account or accounts as to which the defendant is alleged to have violated Section 476a of the Penal Code;

(2) The subpoena or subpoena duces tecum is issued and served upon the financial institution in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure; and

(3) The records are to be produced at a preliminary hearing or trial at which the defendant will have the opportunity to move to quash the subpoena or subpoena duces tecum prior to the disclosure of any information contained within said records, and to move to suppress any portion of the records which the court finds irrelevant to the charges

SEC. 7. Section 7480 of the Government Code is amended to read.

7480 Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank in this state, such police or sheriff's department or district attorney may request a bank to furnish, and a bank shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(i) The number of items dishonored;

(ii) The number of items paid which created overdrafts;

(iii) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts;

(iv) The dates and amounts of deposits and debits and the account balance on such dates;

(v) A copy of the signature and any addresses appearing on a customer's signature card; and

(vi) The date the account opened and, if applicable, the date the account closed.

The bank shall supply the information set forth above within 10 days after receipt of the certification in writing unless prior to the expiration of such 10 days the bank makes a written showing to the party who made the written certification that the information cannot reasonably be made available within 10 days and that an additional period of time is required to make the records available. Upon receipt of such showing, the party who made the written certification may request the bank to seek, within five days, a determination from a judge of the superior court as to the period of time which is reasonably necessary to supply such information. If the bank does not seek such determination within five days, the party who made the written certification may seek such a determination from a judge of the superior court.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, the Department of Benefit Payments, or a police or sheriff's department or district attorney from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority

to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99) of the Financial Code.

(2) With respect to the Department of Savings and Loans by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the State Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code; or

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(g) The disclosure to the State Controller of the information required by Section 7853 of the Revenue and Taxation Code.

SEC. 8. Section 12586 of the Government Code is amended to read:

12586 (a) Except as otherwise provided and except corporate trustees which are subject to the jurisdiction of the Superintendent of Banks of the State of California or to the Comptroller of Currency of the United States, every charitable corporation and trustee subject to this article shall, in addition to filing copies of the instruments previously required, file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation or trustee, in accordance with rules and regulations of the Attorney General.

(b) The Attorney General shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for

the different classes as to time and nature of the reports required to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The Attorney General may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the Attorney General and after the Attorney General has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

(c) A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the Attorney General, may be filed as a report required by this section.

(d) The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than four (4) months and fifteen (15) days following the close of the first calendar or fiscal year in which any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this article takes effect, the first report shall be filed at the close of the calendar or fiscal year in which it was registered with the Attorney General or not later than four (4) months and fifteen (15) days following the close of such calendar or fiscal period.

CHAPTER 1347

An act to amend Sections 274, 1800, 1810, 1815, and 12100 of, to add Section 1800.5, Chapter 14A (commencing with Section 1851) to Division 1 of, and Division 16 (commencing with Section 33000) to, and to repeal Sections 1814 and 12100 of, the Financial Code, and to amend Section 7480 of the Government Code, relating to financial institutions.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 274 of the Financial Code is amended to read:

274 The State Banking Fund is continued in existence as the

State Banking Fund, subject to all of the provisions of this division. All expenses and salaries of the department shall be paid out of the State Banking Fund. Expenses and salaries incurred in the liquidation or conservation of any bank or of any person licensed under Division 15 (commencing with Section 31000) or Division 16 (commencing with Section 33000), including the compensation of employees of the department to the extent that they are engaged in such liquidation or conservation, if possible, and if advanced from the State Banking Fund, shall constitute a first charge against the assets of such bank or licensee, as the case may be.

SEC 2 Section 1800 of the Financial Code is amended to read·

1800 No person shall engage in the business of receiving money for the purpose of transmitting the same or its equivalent to foreign countries without first obtaining a license from the superintendent. For the purposes of this article "licensee" means any person licensed pursuant to this article. The provisions of this article shall not apply to (a) a bank or trust company or a foreign banking corporation licensed to do business in this state, or (b) the receipt of money by an agent of an incorporated telegraph company at any regular office of such company for immediate transmission by telegraph. A licensee engaged in the business of receiving money for transmission to a foreign country shall pay to the superintendent annually on or before July 1st fifty dollars ($50) for each branch office and three dollars ($3) for each agency at which money is received for transmission to a foreign country

SEC 2 5. Section 1800 5 is added to the Financial Code, to read:

1800 5 (a) Except as otherwise provided in subdivision (b), "receiving money for transmission" does not include selling any check, draft, money order, travelers check, or other instrument (whether or not negotiable) for the transmission or payment of money

(b) "Receiving money for transmission" includes the sale by a licensee, either directly or indirectly through an agent, of any check or draft which

(1) Is drawn by the licensee,

(2) Is drawn on, or is payable through or at, an office of a bank located in a foreign country;

(3) Is denominated in a foreign currency; and

(4) Is not designated on its face by the term "money order" or "travelers check" or by any substantially similar term.

SEC 3. Section 1814 of the Financial Code is repealed.

SEC 3 5 Section 1810 of the Financial Code is amended to read

1810 (a) Every licensee or its agent shall forward all moneys received for transmission to a foreign country or give instructions committing equivalent funds to the person designated by the depositor within 10 days after receiving such money, unless otherwise ordered by his customer

(b) Whenever a licensee, either directly or indirectly through an agent, receives money for transmission by means of selling a check

or draft of the type described in subdivision (b) of Section 1800.5, the purchaser of such instrument shall be deemed to have ordered compliance with subdivision (a), as follows:

(1) In case the instrument is payable at a definite time, not later than such definite time; and

(2) In case the instrument is payable on demand, on or before the next business day.

SEC. 4. Section 1815 of the Financial Code is amended to read:

1815. A licensee who does not qualify to make use of agencies in the conduct of its business at all times shall maintain assets at least ten thousand dollars ($10,000) in excess of its liabilities, including liquid assets at least five thousand dollars ($5,000) in excess of its liabilities on account of moneys received for transmission to a foreign country. A licensee is qualified to make use of agencies in the conduct of its business if at all times it shall maintain assets at least one hundred thousand dollars ($100,000) in excess of its liabilities, including liquid assets at least twenty-five thousand dollars ($25,000) in excess of its liabilities on account of moneys received for transmission to a foreign country. The superintendent may determine by general rule what assets are liquid assets within the meaning of this section and may determine by specific ruling or demand that a particular asset is or is not a liquid asset within the meaning of this section.

SEC. 4 5. Chapter 14A (commencing with Section 1851) is added to Division 1 of the Financial Code, to read·

CHAPTER 14A. TRAVELERS CHECKS

Article 1. General Provisions

1851. This chapter is known and may be cited as the Travelers Checks Act

1852. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this chapter:

(a) "Agent" means any person authorized by a licensee to sell travelers checks in this state on behalf of such licensee.

(b) "Business day" means any day other than Saturday, Sunday or any other day which is specified or provided for as a holiday in the Government Code.

(c) "Eligible security" has the meaning set forth in subdivision (a) of Section 1876.1

(d) (1) "Foreign currency" means any currency other than United States currency

(2) "Foreign currency," when used with respect to any payment instrument, means a payment instrument which is denominated in a foreign currency

(e) "Licensee" means a person duly licensed by the superintendent pursuant to this chapter to issue travelers checks.

(f) "Outstanding travelers checks" means travelers checks sold in

the United States and reported to licensee.

(g) (1) "Payment instrument" means

(A) Any instrument (whether or not negotiable) for the transmission or payment of money which is designated on its face by the term "money order" or by any substantially similar term; or

(B) Any check, draft, or other instrument (whether or not negotiable) for the transmission or payment of money, if sold to a natural person and payable on demand.

(2) Notwithstanding the provisions of subparagraph (B) of paragraph (1) of this subdivision, "payment instrument" does not include

(A) Any travelers check,

(B) Any credit card voucher,

(C) Any letter of credit, or

(D) Any instrument which is redeemable by the issuer in goods or services

(h) "Person" means any individual, partnership, unincorporated association, or corporation

(i) "Superintendent" means the Superintendent of Banks.

(j) "Travelers check" means an instrument for the payment of money which

(1) Is designated on its face by the term "travelers check" or by any substantially similar term or is commonly known and marketed as a travelers check by a corporation licensed as an issuer of travelers checks in this state on or prior to January 1, 1978, and not also by the term "money order" or by any substantially similar term;

(2) (A) If issued in United States currency, is in the sum of ten dollars ($10) or a whole multiple thereof, if less than one hundred dollars ($100), or in the sum of one hundred dollars ($100) or a whole multiple thereof;

(B) If issued in any foreign currency, is in an even denomination of such currency,

(3) Contains a provision for a specimen signature of the purchaser to be completed at the time of purchase, and

(4) Contains a provision for a countersignature of the purchaser to be completed at the time of negotiation.

(k) "United States currency", when used with respect to any payment instrument, means a payment instrument which is denominated in United States currency

1852.1 (a) Each fee for filing an application with the superintendent shall be paid at the time when such application is filed with the superintendent

(b) No fee for filing an application with the superintendent shall be refundable, regardless of whether such application is approved, denied, withdrawn, or abandoned

1852.2 Fees shall be paid to, and collected by, the superintendent, as follows

(a) The fee for filing with the superintendent an application for a license shall be two thousand dollars ($2,000)

(b) The fee for issuing a license shall be twenty-five dollars ($25).

(c) Whenever the superintendent examines any licensee or any California agent of a licensee, such licensee shall pay, within 10 days after receipt of a statement from the superintendent, a fee of two hundred dollars ($200) per day for each examiner engaged in such examination plus, in case it is necessary for any examiner engaged in such examination to travel outside this state, the travel expenses of such examiner.

1852.3. The superintendent shall annually assess and collect from licensees an assessment in accordance with Section 33302.

Article 2. Prohibitions

1853. No person shall engage in the business of issuing travelers checks without having first obtained a license hereunder.

1854. (a) No license to issue travelers checks shall be required of banks or foreign banking corporations licensed to do business in this state.

(b) No license to issue travelers checks shall be required for the issuance of any foreign currency travelers check by a group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the superintendent under Article 1 (commencing with Section 1750) of Chapter 14, provided that each bank which is a member of such group is jointly and severally liable to pay such foreign currency travelers check.

1854.1. There is exempted from the provisions of Section 1853 the sale by a person licensed under Article 3 (commencing with Section 1800) of Chapter 14 of Division 1 or by any agent of such person, of any foreign currency travelers check that is issued by a bank which is organized under the laws of a nation other than the United States and which is not licensed by the superintendent under Article 1 (commencing with Section 1750) of Chapter 14 of Division 1, provided

(a) That such person, at the time when it sells the foreign currency travelers check, either directly or indirectly through any of its agents, provides to the purchaser a written guaranty that, if such bank fails to pay the foreign currency travelers check on account of insolvency, such person will pay the foreign currency travelers check; and

(b) That the aggregate face amount of foreign currency travelers checks issued by such bank which are sold in this state in any calendar year by such person, directly or indirectly through its agents, shall not exceed the equivalent of one hundred thousand dollars ($100,000).

Article 3. Application for License

1855 An application for a license or renewal thereof shall be in writing, under oath, and in a form prescribed by the superintendent. It shall contain the name and address of the applicant, the location of applicant's principal place of business and, if applicant is a corporation, the name and address of directors and principal officers thereof.

1856 Each application for a license or renewal thereof shall be accompanied by such information and documents as the superintendent may by regulation or order reasonably require, including but not limited to:

(a) The most recent audited and unconsolidated statement of income and statement of condition of applicant as prepared by an independent certified public accountant in conformity with generally accepted accounting principles applied on a consistent basis.

(b) Description of applicant's business and mode of operation.

(c) Enumeration of names of parent and active subsidiary organizations of applicant, if any.

(d) Copies of the applicant's filings for the preceding year with the Securities and Exchange Commission, and copies of the most recent filings for the preceding year with the California Corporations Commissioner, or other California state agency

(e) Detailed statement of eligible securities of applicant, including identification by name and present value, which applicant intends to use in the conduct of its business of issuing travelers checks

(f) Amount of issuer's liability for travelers checks outstanding in California, and in the United States, as of the last business day of the preceding calendar quarter.

(g) Name and principal office of each agent, selling or to be selling travelers checks in California.

(h) Name of other states, in which applicant has been granted a license or authorization to sell or is selling travelers checks

Article 4. Granting and Renewal of Licenses

1857 The superintendent shall approve an application for a license within 90 days from the date of filing and shall approve an application for a renewal of a license within 30 days of filing unless after a duly noticed hearing, the superintendent makes any of the following findings, each of which shall constitute sufficient grounds for the denial of such application:

(a) The granting of the license will be against public interest

(b) The applicant does not intend actively and in good faith to carry on as a business the transactions which would be permitted by the issuance of the license applied for

(c) The applicant is not of good business reputation.

(d) The applicant is lacking in integrity

(e) The applicant has been refused a professional, occupational or vocational license or had such a license suspended or revoked, by any licensing authority for reasons that should preclude the granting of the license applied for.

(f) The applicant or any person acting on behalf of the applicant has willfully made or caused to be made in any application or report filed with the superintendent or in any proceeding before the superintendent, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which is required to be stated therein.

(g) The applicant has previously engaged in a fraudulent practice or act or has conducted any business in an unlawful or dishonest manner.

(h) The applicant has shown incompetence or untrustworthiness in the conduct of any business, or has by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with the applicant to the danger of loss.

(i) The applicant has knowingly failed to perform a duty expressly enjoined upon such applicant by a provision of this chapter or the regulations promulgated by the superintendent or has knowingly committed an act expressly forbidden by such a provision or such rules.

(j) The applicant has been convicted of:

(1) A felony; or

(2) Any crime involving moral turpitude.

(k) The applicant has knowingly aided or abetted any person in any act or omission which would constitute grounds for the suspension, revocation or refusal of a license issued under this chapter to the person aided or abetted.

(l) The applicant has knowingly permitted any person in its employ to violate any provision of this chapter.

(m) The applicant does not have an amount of shareholder equity determined to be adequate by the superintendent but in no case shall that amount, as a condition of granting the license, be required to exceed five million dollars ($5,000,000). The amount shall be computed in accordance with generally accepted accounting principles applied on a consistent basis.

(n) The applicant does not at all times comply with the provisions of Section 1876.8.

1858. Prior to the issuance of a license pursuant to this chapter, and as a further condition to the issuance and continuing validity of such license, each applicant shall enter into a contract with the State of California, by and through the superintendent, in form and substance satisfactory to the superintendent, which contract shall provide that applicant shall comply with the laws of the State of California, all regulations and orders issued by the superintendent and all of the provisions, obligations and requirements of this

chapter, including, but not limited to, the provisions of Article 6 (commencing with Section 1877) hereof relating to examinations.

1859 (a) Prior to the issuance of a license pursuant to this chapter, and as a further condition to the issuance of such license, each applicant shall file with the superintendent, in such form as he may by regulation or order require, an irrevocable consent appointing the superintendent and any successor from time to time in office to receive service of any lawful process in any noncriminal judicial or administrative proceeding against such person, his successor, executor, or administrator, which arises under this chapter or any regulation or order issued under this chapter after such consent has been filed

(b) Service of process pursuant to this section shall have the same force and validity as if served personally upon the person

(c) Service may be made by leaving a copy of the process at any office of the superintendent, but such service is not effective unless (1) the party making such service, who may be the superintendent, forthwith sends notice of such service and a copy of such process by registered or certified mail to the party served at his last address on file with the superintendent, and (2) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows

1860 If the application is approved by the superintendent, and the applicant has complied with Sections 1858 and 1859, the superintendent shall, upon the payment of the license fees, issue and deliver to applicant a license to engage in business in accordance with this chapter

Article 5 Obligations of Licensees

1862 The license is not transferable or assignable. Licenses expire on the first day of July following the date of issuance, unless on or before the first day of June prior to the expiration date the licensee files an application for renewal.

1863 Each licensee shall file with the superintendent quarterly a report as of the end of the preceding calendar quarter which shall include·

(a) An unaudited unconsolidated statement of income and statement of condition of licensee completed in accordance with generally accepted accounting principles applied on a consistent basis,

(b) A schedule of eligible securities owned by the licensee pursuant to Section 1876 8

(c) The names and addresses of agents appointed or terminated during such quarter

1864 The superintendent may at any time require any licensee to make and file with him a special report furnishing such relevant

information as he may reasonably specify to inform the superintendent of the actual financial condition of such licensee.

1865 No licensee shall issue any form of travelers check for sale in this state unless a certified copy of the travelers check has first been filed with the superintendent.

1866 Every travelers check issued by a licensee, for sale in this state, shall bear the name of the licensee clearly imprinted thereon.

1867 Each licensee shall be liable in accordance with the California Commercial Code for the payment of all travelers checks duly issued by it and lawfully sold in this state

1868 Each licensee shall at all times maintain shareholder equity determined to be adequate by the superintendent in an amount up to five million dollars ($5,000,000)

1869 No person shall become or continue to be an agent in California of a licensee, nor shall any licensee appoint or continue any person as its agent in California unless such person and such licensee shall have first made a written agreement setting forth the terms of the agency and including provisions

(a) That the licensee appoints the person as its agent with authority to sell in California on behalf of the licensee travelers checks issued by the licensee,

(b) That all funds, less fees due agents provided for and expressly set forth, received by the person from the sale of travelers checks issued by the licensee shall be trust funds owned by and belonging to the licensee,

(c) That the person make and keep such accounts, correspondence, memorandums, papers, books and other records as the superintendent by regulation or order requires and preserve such records for the time specified by such regulation or order

(d) That the person will comply with all applicable conditions of this chapter and regulations and orders issued under this chapter

1870 No agent of a licensee shall, nor shall any licensee cause or permit any of its agents to, sell any travelers check issued by such licensee without concurrently receiving cash or its equivalent, check, draft, credit card, travelers check or payment instrument, or a combination of same believed to be valid in an amount not less than the face amount of such travelers check

1871 Each agent of a licensee which sells any travelers check issued by such licensee shall, and each licensee shall require each of its agents which sells any travelers check issued by such licensee to, report such sale within seven days after the sale and remit the face amount of such travelers check to such licensee within three business days (or such shorter period as such agent and such licensee may specify in the agreement called for in Section 1869 or in any amendment of such contract) after such sale This section shall not apply to an agent which is an insured institution pursuant to the Federal Deposit Insurance Corporation Act (12 U S C 1811 et seq.), the Federal Savings and Loan Insurance Corporation Act (12 U S C 1724 et seq), or the Federal Credit Union Act (12 U S C 1781 et

seq.).

For the purpose of this section, remittance shall include either direct payment of such funds to licensee or its representative, or the deposit of such funds in a bank or savings and loan association in an account in the name of such licensee specifically established for the purpose of receiving such funds. Remittance by such agency to such licensee or its representatives or deposit by such agency in such account in a bank or savings and loan association of funds in advance of the sale of such travelers checks but in an amount not less than the amount that such agent would normally receive from such sales of payment instruments, shall be deemed compliance with provisions of this section.

1872. No agent of a licensee shall, nor shall any licensee cause or permit any of its agents to, commingle any funds, less fees due agents, received from the sale by such agent of travelers checks issued by such licensee with any other property owned or controlled by such agent or use such funds for any purpose other than to remit such funds to such licensee; provided, however, that any agent of a licensee may, unless such agent and such licensee provide to the contrary in the agreement called for in Section 1869 or in any amendment of such agreement, commingle such funds with other cash, cash equivalents and travelers checks owned or controlled by it and use such funds in the ordinary course of its business for the purpose of making change and cashing travelers checks, checks, or drafts believed by it to be valid.

1873. If any agent of a licensee shall commingle any funds, less fees due agents, received from the sale of travelers checks issued by such licensee with any other property owned or controlled by such agent, all such property shall be impressed with a trust in favor of such licensee in an amount equal to the aggregate amount of such funds so commingled.

1874. All funds, less fees due agents pursuant to the agreement required by Section 1869, received by agents from the sale of travelers checks shall constitute trust funds owned by and belonging to the licensee.

1875. No funds, less fees due agents, received by any agent of a licensee from the sale of travelers checks issued by such licensee, while held by such agent, nor any property impressed with a trust pursuant to Section 1874 shall be subject to attachment, levy of execution, or sequestration by order of any court, except by such licensee.

1876. Nothing in this chapter shall be construed to prevent any licensee from taking any legal action necessary to enforce any claim which such licensee may have.

Article 5.1. Eligible Securities

1876.1. In this article:

(a) "Eligible security" means any United States currency eligible

security or foreign currency eligible security

(b) "Eligible securities rating service" means any securities rating service which the superintendent has by regulation or order declared to be an eligible securities rating service pursuant to Section 1876 5

(c) "Eligible rating", when used with respect to any security or class of securities and any eligible securities rating service, means any rating assigned to such security or class of securities by such eligible securities rating service which the superintendent has by regulation or order declared to be an eligible rating pursuant to Section 1876.6.

(d) "Foreign currency eligible security" means any of the following which is, or is denominated in, a foreign currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876 3.

(1) Any of the following which is of comparable quality to the United States currency eligible securities specified in paragraphs (1) to (7), inclusive, of subdivision (e).

(A) Cash

(B) Any deposit in an office of a bank located in a foreign country

(C) Any bond, note, or other obligation.

(2) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876 4

(e) "United States currency eligible security" means any of the following which is, or is denominated in, United States currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 1876 3

(1) Cash

(2) Any deposit in an office of an insured bank or of an insured savings and loan association, which office is located in the United States

(3) Any bond, note, or other obligation which is issued or guaranteed by the United States or by any agency of the United States

(4) Any bond, note, or other obligation which is issued or guaranteed by any state of the United States or by any governmental agency of or within any state of the United States and which is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance which is eligible for discount by a Federal Reserve bank.

(6) Any commercial paper which is assigned an eligible rating by an eligible securities rating service.

(7) Any bond, note, or other obligation or preferred stock which is assigned an eligible rating by an eligible securities rating service

(8) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 1876 4

(9) Any account due to any licensee from any agent of such licensee on account of the sale by such agent of travelers checks

issued by the licensee, which the superintendent has by order declared to be an eligible security for the licensee pursuant to Section 1876 7

(f) "Value" means

(1) When used with respect to an eligible security owned by a licensee which consists of an account due to such licensee from an agent of the licensee on account of the sale by such agent of travelers checks issued by the licensee which the superintendent has declared to be an eligible security for the licensee pursuant to Section 1876.7, net carrying value as determined in conformity with generally accepted accounting principles;

(2) When used with respect to any other eligible security owned by a licensee:

(A) In case the practice and policy of such licensee is to hold eligible securities to maturity, net carrying value as determined in conformity with generally accepted accounting principles;

(B) In any other case, market value

1876.2. (a) For purposes of this article, a licensee shall be deemed to own an eligible security only if

(1) The licensee owns the eligible security solely and exclusively in its own right, both of record and beneficially,

(2) The eligible security is not subject to any pledge, lien, or security interest; and

(3) The licensee can freely negotiate, assign, or otherwise transfer the eligible security

(b) Notwithstanding the provisions of subdivision (a), no licensee shall be deemed not to own an eligible security solely on account of any of the following facts, provided that, but for such fact, such licensee would be deemed to own such eligible security under the provisions of subdivision (a)

(1) The fact that the eligible security is owned of record by a documented nominee of the licensee or by a securities depository which is licensed under, or exempt from licensing under, Division 14 (commencing with Section 30000).

(2) The fact that the licensee has pledged the eligible security with the United States or any state of the United States to secure payment by the licensee of travelers checks issued by the licensee.

1876 3 If the superintendent finds that any eligible security or class of eligible securities is not of sufficient liquidity or quality to be eligible securities, the superintendent may by regulation or order declare such security or class of securities to be ineligible.

1876 4 If the superintendent finds that any security or class of securities which is not an eligible security is of sufficient liquidity and quality to be an eligible security, the superintendent may by regulation or order declare such security or class of securities to be eligible securities

1876 5 If the superintendent finds that a securities rating service·

(a) Has been continuously engaged in the business of rating securities for a period of not less than three years;

(b) Is competent to rate securities and is nationally recognized for rating securities in a competent manner; and

(c) Publishes its ratings of securities on a nationwide basis:

The superintendent may by regulation or order declare such securities rating service to be an eligible securities rating service.

1876.6. If the superintendent finds that a rating assigned to a class of securities by an eligible securities rating service indicates that such class of securities is of sufficient quality to be eligible securities, the superintendent may by regulation or order declare such rating to be an eligible rating.

1876 7. If the superintendent finds that an account due to any licensee from any agent of such licensee on account of the sale by such agent of travelers checks issued by the licensee is, in view of the financial condition of the agent and of the licensee, the history of such account, and such other factors as may in the opinion of the superintendent be relevant, of sufficient quality to be an eligible security for the licensee, the superintendent may by order declare such account to be an eligible security for the licensee. However, in computing the value of any such account for purposes of Section 1876.8, there shall be excluded any amount due on account of the sale of a travelers check if the time elapsed between such sale and the date of computation exceeds the average time that elapses between the time of sale and the time of payment of travelers checks issued by the licensee

1876.8. (a) Each licensee shall at all times own United States currency eligible securities having an aggregate value not less than the aggregate face amount of all outstanding United States currency travelers checks issued by it.

(b) Each licensee shall at all times own eligible securities having an aggregate value not less than the aggregate face amount of all outstanding foreign currency travelers checks issued by it.

1876 9. (a) In computing for purposes of Section 1876.8 the aggregate value of eligible securities owned by a licensee, there shall be excluded the value of any eligible security if and to the extent that the value of such eligible security, when combined with the aggregate value of all other eligible securities owned by such licensee which are issued or guaranteed by the same person or by any affiliate of the same person by whom such eligible security is issued or guaranteed, exceeds 10 percent of the aggregate value of all eligible securities owned by the licensee.

(b) Subdivision (a) shall not be deemed to require the exclusion of the value of any of the following eligible securities, and each of the following eligible securities shall be exempted from the limitations of subdivision (a):

(1) The following United States currency eligible securities:

(A) Cash.

(B) Any deposit in an office of an insured bank or of an insured savings and loan association, which office is located in the United States.

(C) Any bond, note, or other obligation for the payment of which the full faith and credit of the United States are pledged.

(2) Any eligible security which the superintendent, in view of the financial condition of the obligor or issuer and such other factors as may in the opinion of the superintendent be relevant, finds to be of such quality that exclusion of the value of such eligible security pursuant to subdivision (a) is not necessary for the purposes of this division and which the superintendent by regulation or order exempts from the limitations of subdivision (a)

1876 10. In computing for purposes of subdivision (b) of Section 1876 8 the aggregate value of foreign currency eligible securities owned by a licensee, there shall be excluded the value of any foreign currency eligible security if and to the extent that the value of such foreign currency eligible security, when combined with the value of all other foreign currency eligible securities owned by such licensee which are, or are denominated in, the same foreign currency as such foreign currency eligible security, exceed the aggregate face amount of all outstanding foreign currency travelers checks issued by the licensee which are denominated in such foreign currency.

1876 11. In the case of a licensee which is also licensed under Division 16 (commencing with Section 33000), the amount of aggregate value of eligible securities which such licensee is required to own under Section 1876 8 is in addition to the amount of aggregate value of eligible securities which the licensee is required to own under Section 33567 Whenever the amount of aggregate value of eligible securities owned by such a licensee is less than the sum of (a) the aggregate value required under Section 1876 8 and (b) the aggregate value required under Section 33567, such licensee shall be deemed to be in violation of Section 1876.8 and of Section 33567

Article 6 Examinations

1877 (a) The superintendent in his discretion may at any time make such examinations within or outside of this state of any licensee under this chapter as he deems reasonably necessary to determine whether any person has violated any provision of this chapter or any regulation or order hereunder, or to aid in the enforcement of this chapter.

(b) The officers and employees of a licensee under this chapter being examined by the superintendent shall exhibit to the superintendent, or any officer designated by him, on request, any or all of its accounts, books, correspondence, papers, memorandums, agreements or other documents or records relevant or material to the examination and shall otherwise facilitate such examination so far as it may be in their power to do so.

(c) For the purposes of any examination or proceeding under this chapter, the superintendent or any officer designated by him may administer oaths and affirmations, and may by issuance of a subpoena, compel the appearance of any person, and require the

production of any books, papers, correspondence, memorandums, agreements or other documents or records relevant or material to the examination or proceeding

(d) Where the principal place of business of any licensee under this chapter is located in another state, the superintendent may, in his discretion, in lieu of any examination provided for herein, accept a certified copy of the report of examination completed by the licensing or other authority having regulatory jurisdiction over the issuance and sale of travelers checks of another state

Article 7 Enforcement

1880 In this article, unless the context otherwise requires:

(a) "Act" includes omission

(b) "Insolvent", when used with respect to any person, means a person who has ceased to pay his debts in the ordinary course of business, who cannot pay his debts as they become due, or whose liabilities exceed his assets

(c) "Office with a licensee" means the position of director, officer, employee, or agent of such licensee

(d) "Subject person", when used with respect to a licensee, means

(1) Any director, officer, employee, or agent of such licensee, or

(2) Any other person who participates in the conduct of the business of such licensee

1880 5 (a) No order issued by the superintendent under Section 1883, 1885, or 1886 shall become effective earlier than the 10th business day after the issuance of such order

(b) No order issued by the superintendent under subdivision (a) of Section 1884 or subdivision (a) or (b) of Section 1887 shall become effective earlier than the fifth business day after the issuance of such order

1881 (a) Whenever it appears to the superintendent that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this chapter or of any regulation or order issued under this chapter, the superintendent may bring an action in the name of the people of this state in the superior court to enjoin such violation or to enforce compliance with this chapter or with any regulation or order issued under this chapter Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a receiver or conservator may be appointed for the defendant or the defendant's assets The court may not require the superintendent to post a bond

(b) Any receiver or conservator appointed by the court pursuant to subdivision (a) may, with the approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy No action at law or

in equity may be maintained by any party against the superintendent or such receiver or conservator by reason of the exercise of such powers or the performance of such duties pursuant to the order, or with the approval of, the court

(c) The superintendent may include in any action authorized under subdivision (a) a claim for ancillary relief, including a claim for restitution or damages on behalf of the persons injured by the act constituting the subject matter of such action, and the court shall have jurisdiction to award such additional relief

1882 (a) If the superintendent finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 1853, the superintendent may order such person to cease and desist from such violation unless and until such person is issued a license

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom such order is issued may file with the superintendent an application for a hearing on the order If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such person consents), the order shall be deemed rescinded Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any person to whom an order is issued under subdivision (a) to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent for hearing on the order pursuant to paragraph (1) of this subdivision

1883 If, after notice and a hearing, the superintendent finds·

(a) That any licensee or any California agent of a licensee has engaged or participated, is engaging or participating, or that there is reasonable cause to believe that any licensee or any California agent of a licensee is about to engage or participate, in any unsafe or unsound act with respect to the business of such licensee, or

(b) That any licensee or any California agent of a licensee has violated, is violating, or that there is reasonable cause to believe that any licensee or any California agent of a licensee is about to violate, any provision of this chapter or of any regulation or order issued under this chapter or any provision of any other applicable law

The superintendent may order such licensee or such California agent to cease and desist from such action or violation The order may require the licensee or such California agent to take affirmative action to correct any condition resulting from the action or violation

1884 (a) If the superintendent finds that any of the factors set forth in Section 1883 is true with respect to any licensee or any California agent of a licensee and that such action or violation is likely

(1) To cause the insolvency of the licensee,

(2) To cause substantial dissipation of the assets or earnings of the

licensee;

(3) To seriously weaken the condition of the licensee; or

(4) To otherwise seriously prejudice the interests of purchasers or holders of travelers checks issued by the licensee:

The superintendent may order such licensee or such California agent to cease and desist from such action or violation. Such order may require the licensee or the California agent to take affirmative action to correct any condition resulting from the action or violation.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any licensee or California agent of a licensee to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee or California agent consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any licensee or California agent of a licensee to whom an order is issued under subdivision (a) to petition for judicial review of such order shall not be affected by the failure of such licensee or California agent of a licensee to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision.

1885 If, after notice and a hearing, the superintendent finds:

(a) (1) That any subject person of a licensee has engaged or participated in any unsafe or unsound act with respect to the business of such licensee,

(2) That any subject person of a licensee has violated any provision of this chapter or of any regulation or order issued under this chapter or any provision of any other applicable law relating to the business of such licensee; or

(3) That any subject person of a licensee has engaged or participated in any act which constitutes a breach of his fiduciary duty as a subject person; and

(b) (1) That such act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to the licensee,

(2) That such action, violation, or breach of fiduciary duty has seriously prejudiced, or is likely to seriously prejudice, the interests of purchasers or holders of travelers checks issued by the licensee; or

(3) That the subject person has received financial gain by reason of such act, violation, or breach of fiduciary duty; and

(c) That such act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee

The superintendent may order the licensee to suspend or remove

the subject person from his office, if any, with the licensee and to preclude such person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

1886. If, after notice and a hearing, the superintendent finds that any subject person of a licensee has, by engaging or participating in any act with respect to any financial or other business institution which resulted in financial loss or other damage, demonstrated:

(a) (1) Dishonesty;

(2) Gross negligence with respect to the operations of such institution; or

(3) Willful disregard for the safety and soundness of such institution; and

(b) Unfitness to continue as a subject person of such licensee or participate in the conduct of the business of such licensee:

The superintendent may order the licensee to remove the subject person from his office, if any, with the licensee and to preclude him from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

1887. (a) If the superintendent finds:

(1) That any subject person of a licensee has been charged in an indictment issued by a grand jury or in an information, complaint, or similar pleading issued by a United States attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime which is punishable by imprisonment for a term exceeding one year and which involves dishonesty or breach of trust; and

(2) That such subject person's continuing to serve as a subject person of the licensee may pose a threat to the interests of purchasers or holders of travelers checks issued by the licensee or may threaten to impair public confidence in the licensee:

The superintendent may order such licensee to suspend such subject person from his office, if any, with the licensee and to preclude such person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent. In case the criminal proceedings are terminated other than by a judgment of conviction, such order shall be deemed rescinded.

(b) If the superintendent finds:

(1) That any subject person or former subject person of a licensee with respect to whom an order was issued pursuant to subdivision (a) or any other subject person of a licensee has been finally convicted of a crime which is punishable by imprisonment for a term exceeding one year and which involves dishonesty or breach of trust; and

(2) That such person's continuing to serve or resumption of service as a subject person of the licensee may pose a threat to the interests of purchasers or holders of travelers checks issued by the licensee or may threaten to impair confidence in the licensee:

The superintendent may order such licensee to suspend or remove such subject person or former subject person from his office, if any, with the licensee and to preclude him from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

(c) (1) Within 30 days after an order is issued pursuant to subdivision (a) or (b), any licensee to which such order is issued or any subject person or former subject person of a licensee with respect to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee, subject person, or former subject person consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded

(2) The right of any licensee to which an order is issued under subdivision (a) or (b) or of any subject person or former subject person of a licensee with respect to whom such an order is issued to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision.

(d) The fact that any subject person of a licensee charged with a crime involving dishonesty or breach of trust is not finally convicted of such crime shall not preclude the superintendent from issuing an order regarding such licensee or such subject person pursuant to any other section of this chapter

1888. (a) Any licensee to which an order is issued under Section 1885, 1886, or 1887 or any subject person or former subject person of a licensee with respect to whom such an order is issued may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless the superintendent finds that it is in the public interest to do so and that it is reasonable to believe that such subject person or former subject person will, if and when he becomes a subject person of a licensee, comply with all applicable provisions of this chapter and of any regulation or order issued under this chapter.

(b) The right of any licensee to which an order is issued under Section 1885, 1886, or 1887 or any subject person or former subject person of a licensee with respect to whom such an order is issued to petition for judicial review of such order shall not be affected by the failure of such licensee, subject person, or former subject person to apply to the superintendent pursuant to subdivision (a) to modify or rescind the order

1889 If, after notice and a hearing, the superintendent finds:

(a) That any licensee has violated any provision of this chapter or of any regulation or order issued under this chapter or any provision of any other applicable law;

(b) That any licensee is conducting its business in an unsafe or unsound manner,

(c) That any licensee is in such condition that it is unsafe or unsound for it to transact the business of selling in this state payment instruments issued by it;

(d) That any licensee has ceased to transact the business of selling in this state payment instruments issued by it;

(e) That any licensee is insolvent;

(f) That any licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;

(g) That any licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any such relief under any such law against any licensee and such licensee has by any affirmative act approved of or consented to such action or such relief has been granted; or

(h) That any fact or condition exists which, if it had existed at the time when any licensee applied for its license, would have been grounds for denying such application

The superintendent may issue an order suspending or revoking the license of such licensee

1890 (a) If the superintendent finds that any of the factors set forth in Section 1889 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of travelers checks issued by such licensee or for the protection of the public interest that he immediately suspend or revoke the license of such licensee, the superintendent may issue an order suspending or revoking the license of such licensee.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any licensee to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any licensee to which an order is issued under subdivision (a) to petition for judicial review of such order shall not be affected by the failure of such licensee to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision

1891 Any person whose license is suspended or revoked shall immediately deliver such license to the superintendent.

1892 (a) Any person to whom an order is issued under Section 1889 or 1890 may apply to the superintendent to modify or rescind such order The superintendent shall not grant such application unless he finds that it is in the public interest to do so and that it is

reasonable to believe that such person will, if and when it becomes a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any person to whom an order is issued under Section 1889 or 1890 to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent pursuant to subdivision (a) to modify or rescind the order.

1893. (a) If the superintendent finds that any of the factors set forth in Section 1889 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of travelers checks issued by such licensee or for the protection of the public interest that he take immediate possession of the property and business of the licensee, the superintendent may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the superintendent, resume business upon such conditions as he may prescribe.

(b) (1) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), such licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, dismiss such application or enjoin the superintendent from further proceedings and order him to surrender the property and business of the licensee to the licensee or make such further order as may be just.

(2) The judgment of the superior court may be appealed by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court. In case the superintendent appeals the judgment of the superior court, such appeal shall operate as a stay of the judgment and the superintendent shall not be required to post any bond.

(c) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the superintendent shall conserve or liquidate the property and business of such licensee pursuant to Article 1 (commencing with Section 3100) of Chapter 17 of this division, and the provisions of such article (except Sections 3100, 3101, and 3102) shall apply as if such licensee were a bank

1894. (a) No California agent of a licensee who has actual notice that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, shall sell any travelers check issued by the licensee.

(b) If any California agent of a licensee, after first having actual notice that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, sells any travelers check issued by the licensee, such agent shall be jointly and severally liable with the licensee for the payment of such travelers check

1894 5 In case any person engages in the business of selling in this state travelers checks that are issued by a second person which is neither (i) a licensee for which the first person is an agent nor (ii) a person which, by virtue of Section 1854, is not required to obtain a license to issue travelers checks and for which the first person is an agent, the first person shall, unless such sale is exempted by virtue of Section 1854 1 from the provisions of Section 1853, be jointly and severally liable as a comaker with the second person for the payment of each such travelers check

1895 Nothing in this chapter limits the power of the state to punish any person for any act which constitutes a crime under any statute

1896 Any person who willfully violates Section 1853 shall upon conviction be fined not more than ten thousand dollars ($10,000) or be imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment.

1897 Any person who violates any provision of this chapter shall be liable to the people of the State of California in an action brought by the superintendent in an amount not to exceed one thousand dollars ($1,000) for each violation or, in the case of a continuing violation, an amount not to exceed one thousand dollars ($1,000) for each day for which such violation continues.

SEC 5 Section 12100 of the Financial Code is amended to read:

12100 The provisions of this division do not apply to any of the following

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or California small loan companies

(b) (1) Persons or their authorized agents engaged in the business of paying to others bills, invoices, or accounts of an obligor, or of selling or cashing checks, including travelers checks, drafts, or money orders issued by a person who has been licensed under and complied with, and continues to be licensed under and complies with, Article 3 of Chapter 14 of Division 1 of this code.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when

selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(3) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person, when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter, provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or -directed association whose principal function is that of servicing the community as a reporting agency

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter, provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher

(j) Nonprofit community service organizations that have been incorporated under the General Nonprofit Corporation Law of the State of California whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers or employees organizations, and related groups, if the principal functions of such organizations are (1) consumer credit education; (2) counseling on consumer credit problems and family budgets, and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 5 percent of

the money disbursed monthly, or ten dollars ($10) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

SEC 6. Section 12100 of the Financial Code is amended to read:

12100 The provisions of this division do not apply to any of the following

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or California small loan companies.

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person, when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or -directed association whose principal function is that of servicing the community as a reporting agency

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is

licensed under that part

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check seller or casher

(j) Nonprofit community service organizations that have been incorporated under the General Nonprofit Corporation Law of the State of California whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers or employees organizations, and related groups, if the principal functions of such organizations are (1) consumer credit education; (2) counseling on consumer credit problems and family budgets, and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 5 percent of the money disbursed monthly, or ten dollars ($10) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made, and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Article 3 (commencing with Section 1800) of Chapter 14 of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check

(m) Any transaction of the type decribed in Section 1854 1

SEC 6 5 Section 12100 of the Financial Code is amended to read:

12100 The provisions of this division do not apply to any of the following

(a) Persons or their authorized agents doing business under license and authority of the Superintendent of Banks of the State of California, or under any law of this state or of the United States relating to banks, trust companies, building or savings and loan associations, industrial loan companies, personal property brokers, credit unions, title insurance companies or underwritten title companies (as defined in Section 12402 of the Insurance Code), escrow agents subject to Division 6 of the Financial Code, or California small loan companies.

(b) (1) Any person which is licensed under Chapter 14A (commencing with Section 1851) of Division 1 of this code or any agent of such person when selling any travelers check (as defined in Section 1852 of this code) which is issued by such person.

(2) Any person which is licensed under Division 16 (commencing with Section 33000) of this code or any agent of such person, when selling any payment instrument (as defined in Section 33059 of this code) which is issued by such person.

(c) The services of a person licensed to practice law in this state, when such person renders services in the course of his practice as an attorney at law, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly with the prorater, check seller or casher.

(d) Any transaction in which money or other property is paid to a "joint control agent" for dispersal or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in construction of improvements upon real property.

(e) A merchant-owned credit or creditors association, or a member-owned or member-controlled or -directed association whose principal functions is that of servicing the community as a reporting agency.

(f) Any person licensed under Chapter 1 of Part 6, Division 2 of the Labor Code, when acting in any capacity for which he is licensed under such part.

(g) Any person licensed under Part 1, Division 4, of the Business and Professions Code, when acting in any capacity for which he is licensed under that part.

(h) A common law or statutory assignment for the benefit of creditors or the operation or liquidation of property or a business enterprise under supervision of a creditor's committee.

(i) The services of a person licensed as a certified public accountant or a public accountant in this state, when such person renders services in a course of his practice as a certified public accountant or a public accountant, and the fees and disbursements of such person whether paid by the debtor or other person, are not charges or costs and expenses regulated by or subject to the limitations of this chapter; provided, such fees and disbursements shall not be shared, directly or indirectly, with the prorater, check

seller or casher

(j) Nonprofit community service organizations that are subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or are subject to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) and whose membership consists exclusively of retailers, lenders in the consumer credit field, educators, attorneys, social service organizations, employers or employees organizations, and related groups, if the principal functions of such organizations are: (1) consumer credit education; (2) counseling on consumer credit problems and family budgets; and (3) arranging, and in certain cases administering, debt settlement plans, for which a charge for administrative services only may be made of 5 percent of the money disbursed monthly, or ten dollars ($10) per month, whichever is the lesser, to offset expenses; provided essential records are kept in accordance with sound accounting practices, consumer funds are banked in a trust account and appropriate fidelity bond and insurance are maintained, that reports are made to debtors, and independent audits made; and further provided, however, that this subdivision shall exempt such organizations from this division only with respect to those activities described in Section 12002.1 and not with respect to those activities described in Section 12002.

(k) Any person licensed under Article 3 (commencing with Section 1800) of Chapter 14 of Division 1 or any agent of such person, when selling any check or draft which is drawn by such person and which is of the type described in subdivision (b) of Section 1800.5.

(*l*) Any group of banks each of which is organized under the laws of a nation other than the United States and one or more of which are licensed by the Superintendent of Banks of the State of California under Article 1 (commencing with Section 1750), Chapter 14, Division 1, or any agent of such group, when selling any foreign currency travelers check (as defined in Section 1852) issued by such group, provided that each bank which is a member of the group is jointly and severally liable to pay such foreign currency travelers check

(m) Any transaction of the type described in Section 1854.1.

SEC. 7. Division 16 (commencing with Section 33000) is added to the Financial Code, to read:

DIVISION 16. PAYMENT INSTRUMENTS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Short Title, Construction, and Severability

33000. This division shall be known and may be cited as the "Payment Instruments Law."

33001. This division shall be liberally construed to accomplish its

purposes

33002 In this division, unless otherwise expressly provided:

(a) A reference to a statute or to a regulation includes such statute or regulation as amended, whether before or after the effective date of this division, as well as any new statute or regulation substituted for such statute or regulation after the effective date of this division.

(b) A reference to a governmental agency or to a public officer includes any governmental agency or public officer which succeeds after the effective date of this division to substantially the same functions as those performed by such governmental agency or public officer on the effective date of this division.

33003. In this division, unless otherwise expressly provided, references to financial statements and references to assets, liabilities, income, shareholders' equity, and similar accounting terms mean such financial statements and such accounting terms prepared or determined in conformity with generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters which they purport to present, subject to any specific accounting treatment required by any provision of this division or of any regulation or order issued under this division.

33004. In this division, unless otherwise expressly provided, references to corporations or to aspects of corporations apply to all types of corporations, whether for profit, nonprofit, or of any other type References in this division to corporations and to aspects of corporations are set forth in terms appropriate to profit corporations. However, whenever any reference in this division to a corporation or to an aspect of a corporation is applicable to a type of corporation other than a corporation for profit, if the term of such reference is not appropriate to such type of corporation, such term of reference shall be construed to be the closest equivalent term of reference appropriate to such type of corporation.

33005. Any condition, stipulation, or provision purporting to bind any purchaser or holder of a payment instrument issued by a licensee to waive compliance with any provision of this division or of any regulation or order issued under this division is void.

33006. No provision of this division imposing any liability or sanction applies to any act committed in good faith in conformity with any regulation, order, or written interpretive opinion of the superintendent or any such opinion of the Attorney General, notwithstanding that such regulation, order, or written interpretive opinion may later be amended, rescinded, or repealed or be determined by judicial or other authority to be invalid for any reason.

33007 If any provision of this division or the application thereof to any person or circumstances is held invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect other provisions or applications of this division which can be given effect without the invalid, illegal, or unenforceable provision or application, and to this end, the provisions of this

division are declared to be severable.

Article 2. Legislative Findings and Purposes

33020. The Legislature finds:

(a) That large amounts of payment instruments are sold in this state.

(b) That persons who purchase payment instruments in this state use such payment instruments for, among other purposes, the purpose of paying for the necessities of life.

(c) That the failure of an issuer of payment instruments sold in this state to pay such payment instruments when presented for payment would cause loss to the purchasers or holders of such payment instruments, would disrupt the payments mechanism in this state, would undermine public confidence in financial institutions doing business in this state, and would adversely affect the health, safety, and general welfare of the people of this state.

(d) That the business of selling payment instruments in this state or in any other state of the United States is not regulated by the United States or by any agency of the United States.

(e) That, to protect the interests of purchasers and holders of payment instruments sold in this state, to maintain public confidence in financial institutions doing business in this state, and to preserve the health, safety, and general welfare of the people of this state, it is necessary to regulate the business of selling payment instruments in this state.

(f) That only corporations should be permitted to engage in the business of selling in this state payment instruments issued by them because, as compared with other types of persons, corporations are more easily regulated and supervised, have much greater permanency of existence, and can give better assurance of uninterrupted service.

33021. (a) The purposes of this division are:

(1) To protect the interests of purchasers and holders of payment instruments sold in this state.

(2) To provide for the safe and sound conduct of the business of licensees.

(3) To maintain public confidence in licensees.

(b) The purposes of this division, as set forth in subdivision (a), constitute standards which the superintendent shall observe in administering the provisions of this division.

Article 3 Definitions

33040. Subject to additional definitions contained in this division which are applicable to specific provisions of this division and unless the context otherwise requires, the definitions in this article apply throughout this division.

33041. "Act" includes omission.

33042 "Affiliate", when used with respect to a specified person, means any person controlling, controlled by, or under common control with, such specified person, directly or indirectly through one or more intermediaries.

33043 "Agent", when used with respect to an issuer of payment instruments, means any person whom such issuer has appointed as its agent with authority to sell on behalf of the issuer payment instruments issued by the issuer, provided that the issuer becomes liable for the payment of each payment instrument issued by the issuer which is sold by such person at the time when such payment instrument is sold by such person. However, "agent", when used with respect to an issuer of payment instruments, does not include any officer or employee of such issuer, when acting as such at an office of the issuer.

33044. "Business day" means:

(a) When used with respect to any act to be performed in this state, any day other than (1) Saturday, (2) Sunday, and (3) any other day which is provided for as a holiday in the Government Code.

(b) When used with respect to any act to be performed in any jurisdiction other than this state, any day other than a day which is a legal holiday under the laws of such jurisdiction.

33045. "California agent", when used with respect to an issuer of payment instruments, means an agent of such issuer which is authorized to sell or sells in this state payment instruments issued by the issuer.

33046 "Control", when used with respect to a specified person, means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such specified person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise; provided, however, that no natural person shall be deemed to control a person solely on account of being a director, officer, or employee of such person.

33047. "Controlling person", when used with respect to a specified person, means any person who controls such specified person, directly or indirectly through one or more intermediaries.

33048. (a) "Foreign currency" means any currency other than United States currency

(b) "Foreign currency," when used with respect to any payment instrument, means a payment instrument which is denominated in a foreign currency.

33049 To "include" means by way of enlargement and not by way of limitation

33050 "Insolvent", when used with respect to any person, means a person who has ceased to pay his debts in the ordinary course of business, who cannot pay his debts as they become due, or whose liabilities exceed his assets.

33051. "Insured bank" means any bank the deposits of which are insured by the Federal Deposit Insurance Corporation

33052. "Insured credit union" means any credit union the member accounts of which are insured by the Administrator of the National Credit Union Administration.

33053 "Insured savings and loan association" means any savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation

33054 To "issue", when used with respect to any regulation or order, includes to adopt, amend, repeal, or rescind.

33055 "License" means a license issued under this division.

33056 "Licensee" means a corporation which is licensed under this division to engage in the business of selling in this state payment instruments issued by it.

33057 "Officer" means·

(a) When used with respect to a corporation, any person appointed or designated as an officer of such corporation by or pursuant to applicable law or the articles of incorporation or bylaws of the corporation or any person who performs with respect to the corporation functions usually performed by an officer of a corporation; and

(b) When used with respect to a specified person other than a natural person or a corporation, any person who performs with respect to such specified person functions usually performed by an officer of a corporation with respect to such corporation.

33058 "Order" means any approval, consent, authorization, exemption, denial, prohibition, or requirement applicable to a specific case issued by the superintendent, including any condition thereof "Order" does not include any license issued by the superintendent but does include any condition of such license and any written agreement made by any person with the superintendent under this division

33059 (a) "Payment instrument" means:

(1) Any instrument (whether or not negotiable) for the transmission or payment of money which is designated on its face by the term "money order" or by any substantially similar term; or

(2) Any check, draft, or other instrument (whether or not negotiable) for the transmission or payment of money, if sold to a natural person and payable on demand

(b) Notwithstanding the provisions of paragraph (2) of subdivision (a), "payment instrument" does not include

(1) Any travelers check,

(2) Any credit card voucher;

(3) Any letter of credit; or

(4) Any instrument which is redeemable by the issuer in goods or services

33060 To "permit", when used with respect to a licensee's permitting an agent to perform an act, means for such licensee to fail to use its best efforts to prevent such agent from performing such act, under circumstances where the licensee knows or should know that it is probable that the agent will perform the act

33061 "Person" means any natural person, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, government, agency of any government, or any other organization; provided, however, that "person", when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

33062 "Regulation" means any published regulation, rule, or standard of general application issued by the superintendent.

33063 "Superintendent" means the Superintendent of Banks or any person to whom the Superintendent of Banks delegates the authority to act for him in the particular matter.

33064 "Travelers check" means any instrument for the payment of money which

(a) Is designated on its face by the term "travelers check" or by any substantially similar term or is commonly known and marketed as a travelers check by a corporation licensed as an issuer of travelers checks in this state on or prior to January 1, 1978, and not also by the term "money order" or by any substantially similar term;

(b) (1) If issued in United States currency, is in the sum of ten dollars ($10) or a whole multiple thereof, if less than one hundred dollars ($100), or in the sum of one hundred dollars ($100) or a whole multiple thereof,

(2) If issued in any foreign currency, is in an even denomination of such currency,

(c) Contains a provision for a specimen signature of the purchaser to be completed at the time of purchase; and

(d) Contains a provision for a countersignature of the purchaser to be completed at the time of negotiation.

33065 "United States currency", when used with respect to any payment instrument, means a payment instrument which is denominated in United States currency

CHAPTER 2. EXEMPTIONS

33100 The following persons and transactions are exempted from this division:

(a) (1) Any insured bank, when selling any payment instrument issued by it

(2) Any bank organized under the laws of a nation other than the United States which is licensed by the superintendent under Article 1 (commencing with Section 1750) of Chapter 14 of Division 1, when selling any foreign currency payment instrument which is issued by such bank and which is not designated on its face by the term "money order" or "travelers check" or by any substantially similar term

(3) Any insured savings and loan association, when selling any payment instrument issued by it

(4) Any federal credit union, when selling any payment

instrument issued by it.

(5) Any person licensed under Article 3 (commencing with Section 1800) of Chapter 14 of Division 1, when selling any foreign currency payment instrument which is issued by it and which is not designated on its face by the term "money order" or "travelers check" or by any substantially similar term.

(6) Any person licensed as a check seller under Division 3 (commencing with Section 12000), when selling any payment instrument issued by it.

(7) The United States or any agency of the United States, including the United States Postal Service, any Federal Reserve bank, and any federal home loan bank, when selling any payment instrument issued by it.

(b) Any California agent of any person referred to in subdivision (a), when selling any payment instrument which is issued by such person and which such person is permitted to sell under the paragraph of subdivision (a) applicable to such person.

33101. Any national banking association, federal savings and loan association, or federal credit union is exempted from all the provisions of this division, except the following provisions:

(a) The provisions of Section 34114.

(b) The provisions of Section 34115

(c) The provisions of Section 34101; provided, however, that the provisions of Section 34101 shall apply only in the case of a failure to honor any liability imposed under the provisions of Sections 34114 and 34115; provided, further, that the provisions of Section 34101 relating to the appointment of a receiver or conservator shall not apply in any case

33102. The superintendent may, by regulation or order, either unconditionally or upon specified terms and conditions or for specified periods, exempt from this division any person or transaction or class of persons or transactions, if he finds such action to be in the public interest and that the regulation of such persons or transactions is not necessary for the purposes of this division.

CHAPTER 3. ADMINISTRATION

Article 1. General Provisions

33200. The superintendent shall administer the provisions of this division.

33201. Every final order, decision, license, or other official act of the superintendent under this division is subject to judicial review in accordance with law.

33202. (a) The superintendent may from time to time issue such regulations and orders as are in his opinion necessary to carry out the provisions and purposes of this division.

(b) Regulations and orders issued under this division may, among other things, define any term used in this division, including the term

"unsafe or unsound act", as well as any term not used in this division.

(c) For purposes of regulations and orders issued under this division, the superintendent may classify persons, transactions, and other matters within his jurisdiction, and may prescribe different regulations or orders for different classes.

(d) The superintendent may waive any provision of any regulation or order issued under this division in any case where in his opinion such provision is not necessary in the public interest.

33203 Whenever the superintendent issues an order or license under this division, the superintendent may impose such conditions as are in his opinion necessary to carry out the provisions and purposes of this division.

33204 In any proceeding under this division:

(a) The burden of proving that an application should be approved is upon the applicant.

(b) The burden of proving an exemption or an exception from a definition is upon the person claiming such exemption or such exception from a definition.

33205. The superintendent may honor applications from interested persons for interpretive opinions regarding any provision of this division or of any regulation or order issued under this division.

33206. Notwithstanding that the superintendent permits any licensee, any affiliate of such licensee, or any governmental agency to inspect or make copies of any record relating to such licensee or to any director, officer, employee, affiliate, or agent of such licensee or that the superintendent provides any such record, or a copy thereof, to any such person, any provision of Sections 6254 and 6255 of the Government Code which would, but for such fact, apply to such record, shall continue to apply to such record.

33207. (a) The superintendent may (1) make such public or private investigations within or outside this state as the superintendent deems necessary to determine whether to approve any application filed with him under this division or under any regulation or order issued under this division, to determine whether any person has violated or is about to violate any provision of this division or of any regulation or order issued under this division, to aid in the enforcement of any provision of this division or of any regulation or order issued under this division, or to aid in the issuing of regulations or orders under this division, and (2) publish information concerning any violation of any provision of this division or of any regulation or order issued under this division.

(b) For purposes of any investigation, examination, or other proceeding under this division, the superintendent may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any documents which the superintendent deems relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the

superintendent, may issue to such person an order requiring such person to appear before the superintendent, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as a contempt.

33208. The superintendent may refer such evidence as is available concerning any violation of this division or of any regulation or order issued under this division which constitutes a crime to the district attorney of the county in which such violation occurred, who may, with or without such a reference, institute appropriate criminal proceedings

33209. (a) The several powers granted to the superintendent under this division are in addition to, and not in limitation of, each other. The fact that the superintendent possesses, or has exercised, a power under any provision of this division shall not preclude him from exercising a power under any other provision of this division.

(b) The several powers granted to the superintendent under this division are in addition to, and not in limitation of, his powers under other provisions of law. The fact that the superintendent possesses, or has exercised, a power under any other provision of law shall not preclude him from exercising any power under this division; nor shall the fact that the superintendent possesses, or has exercised, a power under any provision of this division preclude him from exercising a power under any other provision of law.

Article 2. Applications and Reports

33220. Each application filed with the superintendent under this division or under any regulation or order issued under this division shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require.

33221 Each report filed with the superintendent under this division or under any regulation or order issued under this division shall be in such form, shall (subject to any limitations set forth in this division) contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require.

33222. No person shall make any untrue statement of any material fact in any application or report filed with the superintendent under this division or under any regulation or order issued under this division, or willfully omit to state in any such application or report any material fact which is required to be stated therein.

33223. In determining whether to approve any application filed under this division or under any regulation or order issued under this division, the superintendent may consider proposals made by the

applicant, including proposals to appoint officers or to sell securities; and, if in the opinion of the superintendent it is probable that the applicant will be able to implement any such proposal, the superintendent may make findings on the basis of such proposal However, whenever the superintendent approves an application on the basis, in whole or in part, of a proposal made by the applicant, the superintendent shall impose upon such approval appropriate conditions requiring that the applicant implement such proposal within such period of time as the superintendent may specify.

33224 If the superintendent finds, with respect to any application filed under this division or under any regulation or order issued under this division, that not all the information which the superintendent required by regulation or order to be provided in or in connection with such application has been provided, the superintendent may deny the application

Article 3 Adequacy of Shareholders' Equity

33240 In determining for purposes of this division whether the shareholders' equity of any corporation which is an applicant for a license or which is a licensee is adequate, the superintendent shall consider

(a) The nature and volume of the business and proposed business of the corporation;

(b) The amount, nature, quality, and liquidity of the assets of the corporation,

(c) The amount and nature of the liabilities (including contingent liabilities) of the corporation;

(d) The history of, and prospects for, the corporation to earn and retain income,

(e) The quality of the operations of the corporation,

(f) The quality of the management of the corporation,

(g) The nature and quality of the controlling person of the corporation, and

(h) Such other factors as are in the opinion of the superintendent relevant

Article 4. Service of Process

33260 The provisions of this article are in addition to, and not in limitation of, other provisions of law relating to service of process.

33261 Before any corporation is issued a license, such corporation shall file with the superintendent, in such form as the superintendent may by regulation or order require, an appointment irrevocably appointing the superintendent and his successor from time to time in office to be such corporation's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against such corporation, or any of its successors, which arises under this division or under any regulation

or order issued under this division after such appointment has been filed, with the same force and validity as if served personally on such corporation or its successor, as the case may be. Service may be made by leaving a copy of the process at any office of the superintendent, but such service is not effective unless (a) the party making such service, who may be the superintendent, forthwith sends notice of such service and a copy of the process by registered or certified mail to the party served at its last address on file with the superintendent, and (b) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

33262. Whenever any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this division or by any regulation or order issued under this division, whether or not such person has filed an appointment under Section 33261, and if personal jurisdiction over such person cannot otherwise be obtained in this state, such conduct shall be considered equivalent to the appointment of the superintendent and the superintendent's successor from time to time in office to be such person's attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against such person, or any of such person's successors, executors, or administrators, which grows out of such conduct and which is brought under this division, with the same force and validity as if served personally on such person or on such successor, executor, or administrator, as the case may be. Service may be made by leaving a copy of the process in any office of the superintendent but such service is not effective unless (a) the party making such service, who may be the superintendent, forthwith sends notice of such service and a copy of the process by registered or certified mail to the party served at his last known address or takes other steps which are reasonably calculated to give actual notice, and (b) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

Article 5. Agreements With Superintendent

33280. Before any corporation is issued a license, such corporation shall file with the superintendent, in such form as the superintendent may by regulation or order require, an agreement that such corporation will comply with all applicable provisions of this division and of any regulation or order issued under this division.

Article 6 Fees and Assessments

33300. (a) Each fee for filing an application with the superintendent shall be paid at the time when such application is filed with the superintendent

(b) No fee for filing an application with the superintendent shall be refundable, regardless of whether such application is approved, denied, withdrawn, or abandoned.

33301 Fees shall be paid to, and collected by, the superintendent, as follows

(a) The fee for filing with the superintendent an application for a license shall be two thousand dollars ($2,000).

(b) The fee for issuing a license shall be twenty-five dollars ($25)

(c) Whenever the superintendent examines any licensee or any California agent of a licensee, such licensee shall pay, within 10 days after receipt of a statement from the superintendent, a fee of two hundred dollars ($200) per day for each examiner engaged in such examination plus, in case it is necessary for any examiner engaged in such examination to travel outside this state, the travel expenses of such examiner

33302 In this section, "licensee" means any licensee, as defined in Section 33055, or any person licensed under Chapter 14A (commencing with Section 1851) of Division 1

The superintendent shall annually assess and collect from licensees on a pro rata basis an amount which is, in his judgment, sufficient to meet his expenses in administering the provisions of this division and of Chapter 14A (commencing with Section 1851) of Division 1 and to provide a reasonable reserve for contingencies

The amount of the annual assessment on any licensee shall not exceed the sum of the products determined by multiplying (a) increments of the aggregate face amount of payment instruments and travelers checks issued by the licensee and sold in this state by the licensee, directly or indirectly through agents, in the calendar year next preceding the date of such assessment, by (b) percentages of the base assessment rate, according to the following table

Aggregate face amount of payment instruments and travelers checks sold (in millions)	*Percentage of base assessment rate*
First $1	100 0
Next $9	25 0
Next $40	12 5
Next $50	6 0
Next $400	3
Next $500	2
Excess over $1,000	1

The base assessment rate shall be fixed from time to time by the superintendent but shall not exceed one dollar ($1) per one thousand dollars ($1,000) face amount of payment instruments and travelers checks sold.

Article 7 Administration of Certain Provisions

33320 Whenever any provision of this division applies to an agent of a licensee, in case such agent is a savings and loan association organized under the laws of this state, the Savings and Loan Commissioner, and not the superintendent, shall administer such provision to the extent that it applies to such agent; and, for such purpose, the Savings and Loan Commissioner shall have and may exercise any or all of the relevant powers granted to the superintendent under this division.

CHAPTER 4 LICENSING

33400 No person other than a licensee shall engage in the business of selling payment instruments in this state However, this section shall not be deemed to prohibit a California agent of a licensee from selling in this state payment instruments issued by such licensee

33401 No licensee shall sell in this state any payment instruments other than payment instruments issued by it. However, this section shall not be deemed to prohibit:

(a) Any licensee that is an agent of another licensee, from selling payment instruments issued by such other licensee; or

(b) Any licensee that is an agent of a person referred to in subdivision (a) of Section 33100, from selling payment instruments which are issued by such person and which such person is permitted to sell under the paragraph of Section 33100(a) applicable to such person.

33402. (a) No person other than a corporation may apply for or be issued a license

(b) No person other than the following may be issued a license:

(1) A corporation organized under the laws of this state; or

(2) A corporation (other than a corporation organized under the laws of this state) which is qualified to transact intrastate business in this state under Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

33403 If the superintendent finds, with respect to an application for a license·

(a) That the applicant has adequate shareholders' equity to engage in the business of selling payment instruments issued by it and that the financial condition of the applicant is otherwise such that it will be safe and sound for the applicant to engage in the business of selling payment instruments issued by it,

(b) That the applicant, the directors, officers, and controlling

persons of the applicant, and the directors and officers of the controlling persons of the applicant are each of good character and sound financial standing;

(c) That the applicant is competent to engage in the business of selling payment instruments issued by it;

(d) That the applicant's plan for engaging in the business of selling payment instruments issued by it affords reasonable promise of successful operation; and

(e) That it is reasonable to believe that the applicant, if licensed, will engage in the business of selling payment instruments issued by it and will comply with all applicable provisions of this division and of any regulation or order issued under this division.

The superintendent shall approve the application. If, after notice and a hearing, the superintendent finds otherwise, the superintendent shall deny the application.

33404. For purposes of Section 33403, the superintendent may, in the absence of credible evidence to the contrary, presume that an applicant, the directors, officers, and controlling persons of an applicant, and the directors and officers of the controlling persons of an applicant are each of good character and sound financial standing.

33405. (a) For the purposes of Section 33403, the superintendent may find that an applicant, a director, officer, or controlling person of an applicant, or a director or officer of a controlling person of an applicant is not of good character if such person:

(1) Has been convicted of, or has pleaded nolo contendere to, any crime involving an act of fraud or dishonesty;

(2) Has consented to or suffered a judgment in any civil action based upon conduct involving an act of fraud or dishonesty;

(3) Has consented to or suffered the suspension or revocation of any professional, occupational, or vocational license based upon conduct involving an act of fraud or dishonesty;

(4) Has willfully made or caused to be made in any application or report filed with the superintendent or in any proceeding before the superintendent, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which was required to be stated therein; or

(5) Has willfully committed any violation of, or has willfully aided, abetted, counseled, commanded, induced or procured the violation by any other person of, any provision of this division or of any regulation or order issued under this division

(b) Subdivision (a) shall not be deemed to be an exclusive list of the grounds upon which the superintendent may find, for purposes of Section 33403, that an applicant, a director, officer, or controlling person of an applicant, or a director or officer of a controlling person of an applicant is not of good character.

33406. Whenever any application for a license has been approved by the superintendent and all conditions precedent to the issuance

of such license have been fulfilled, the superintendent shall issue the license to the applicant.

33407 No license shall be transferable or assignable.

33408. No licensee shall represent that it is sponsored, recommended, or approved, or that its abilities or qualifications have in any respect been passed upon, by the superintendent. However, this section shall not be deemed to prohibit a licensee from stating that it is licensed if the effect of such license is not misrepresented.

CHAPTER 5. LICENSEES

Article 1. General Provisions

33500. Each licensee shall maintain adequate shareholders' equity and shall otherwise maintain itself in a safe and sound condition

33501. Each licensee shall transact its business in a safe and sound manner.

33502 No licensee shall commit any unsafe or unsound act.

Article 2 Sale of Payment Instruments

33520 (a) No licensee shall engage in the business of selling in this state payment instruments issued by it, except as follows:

(1) Directly, either through officers and employees of such licensee, acting as such at offices of the licensee located in this state or through machines located in this state which are operated by the licensee; and

(2) Indirectly, through California agents of the licensee.

(b) No licensee shall cause or permit any person to engage in the business of selling in this state payment instruments issued by such licensee, except California agents of the licensee.

33521 (a) No licensee shall, nor shall any licensee cause or permit any of its California agents to, sell in this state any payment instrument issued by such licensee unless such payment instrument shall have first been approved as to form by the superintendent.

(b) If the superintendent finds, with respect to an application by a licensee for approval as to form of a payment instrument to be issued by such licensee:

(1) That the payment instrument clearly identifies the licensee as the issuer of the payment instrument;

(2) That the payment intrument is not misleading in any material respect; and

(3) That the payment instrument complies with all applicable laws·

The superintendent shall approve the application and shall, after all conditions precedent to the approval of the payment instrument as to form have been fulfilled, approve the payment instrument as to form. If, after notice and a hearing, the superintendent finds

otherwise, the superintendent shall deny the application.

33522. (a) No licensee shall, nor shall any licensee cause or permit any of its California agents to, sell in this state any payment instrument issued by such licensee which is drawn on or is payable through or at a bank, unless such bank shall have first been approved for such purpose by the superintendent.

(b) If the superintendent finds, with respect to an application by a licensee for approval of a bank as a drawee, payable through, or payable at bank for payment instruments to be issued by such licensee, that it will be safe and sound for payment instruments issued by the licensee to be drawn on, payable through, or payable at, such bank, the superintendent shall approve the application and shall, when all conditions precedent to the approval of the bank as a drawee, payable through, or payable at bank have been fulfilled, approve the bank as a drawee, payable through, or payable at bank for payment instruments to be issued by the licensee. If after notice and a hearing, the superintendent finds otherwise, the superintendent shall deny the application.

33523 No licensee or California agent of a licensee shall, nor shall any licensee cause or permit any of its agents to, sell any payment instrument issued by such licensee without concurrently receiving in consideration of such sale any of the following or any combination of the following in an aggregate amount not less than the face amount of such payment instrument:

(a) Cash or its equivalent.

(b) Payment instrument, check, or draft believed to be collectible.

(c) Credit card voucher believed to be collectible.

33524. Each licensee shall be liable as a maker in accordance with the California Uniform Commercial Code with respect to each payment instrument issued by it which is sold in this state by it, directly or indirectly through a California agent.

Article 3. Eligible Securities

33560. In this article:

(a) "Eligible security" means any United States currency eligible security or foreign currency eligible security.

(b) "Eligible securities rating service" means any securities rating service which the superintendent has by regulation or order declared to be an eligible securities rating service pursuant to Section 33564.

(c) "Eligible rating", when used with respect to any security or class of securities and any eligible securities rating service, means any rating assigned to such security or class of securities by such eligible securities rating service which the superintendent has by regulation or order declared to be an eligible rating pursuant to Section 33565.

(d) "Foreign currency eligible security" means any of the following which is, or is denominated in, a foreign currency and

which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 33562:

(1) Any of the following which is of comparable quality to the United States currency eligible securities specified in paragraphs (1) to (7), inclusive, of subdivision (f):

(A) Cash

(B) Any deposit in an office of a bank located in a foreign country.

(C) Any bond, note, or other obligation.

(2) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 33563.

(e) "Reported outstanding payment instrument", when used with respect to a licensee, means:

(1) Any payment instrument issued by the licensee which has been sold directly by the licensee and which has not yet been paid by the licensee, or

(2) Any payment instrument issued by the licensee which has been sold by an agent of the licensee, which has been reported by such agent to the licensee as having been sold (such report having been received by the licensee), and which has not yet been paid by the licensee

(f) "United States currency eligible security" means any of the following which is, or is denominated in, United States currency and which the superintendent has not by regulation or order declared to be ineligible pursuant to Section 33562:

(1) Cash.

(2) Any deposit in an office of an insured bank or of an insured savings and loan association, which office is located in the United States

(3) Any bond, note, or other obligation which is issued or guaranteed by the United States or by any agency of the United States.

(4) Any bond, note, or other obligation which is issued or guaranteed by any state of the United States or by any governmental agency of or within any state of the United States and which is assigned an eligible rating by an eligible securities rating service.

(5) Any bankers acceptance which is eligible for discount by a Federal Reserve bank.

(6) Any commercial paper which is assigned an eligible rating by an eligible securities rating service.

(7) Any bond, note, or other obligation or preferred stock which is assigned an eligible rating by an eligible securities rating service.

(8) Any other security or class of securities which the superintendent has by regulation or order declared to be eligible securities pursuant to Section 33563.

(9) Any account due to any licensee from any agent of such licensee on account of the sale by such agent of payment instruments issued by the licensee, which the superintendent has by order declared to be an eligible security for the licensee pursuant to

Section 33566.

(g) "Value" means·

(1) When used with respect to an eligible security owned by a licensee which consists of an account due to such licensee from an agent of the licensee on account of the sale by such agent of payment instruments issued by the licensee which the superintendent has declared to be an eligible security for the licensee pursuant to Section 33566, net carrying value as determined in conformity with generally accepted accounting principles;

(2) When used with respect to any other eligible security owned by a licensee.

(A) In case the practice and policy of such licensee is to hold eligible securities to maturity, net carrying value as determined in conformity with generally accepted accounting principles;

(B) In any other case, market value.

33561. (a) For purposes of this article, a licensee shall be deemed to own an eligible security only if:

(1) The licensee owns the eligible security solely and exclusively in its own right, both of record and beneficially;

(2) The eligible security is not subject to any pledge, lien, or security interest; and

(3) The licensee can freely negotiate, assign, or otherwise transfer the eligible security.

(b) Notwithstanding the provisions of subdivision (a), no licensee shall be deemed not to own an eligible security solely on account of any of the following facts, provided that, but for such fact, such licensee would be deemed to own such eligible security under the provisions of subdivision (a):

(1) The fact that the eligible security is owned of record by a documented nominee of the licensee or by a securities depository which is licensed under, or exempt from licensing under, Division 14 (commencing with Section 30000).

(2) The fact that the licensee has pledged the eligible security with the United States or any state of the United States to secure payment by the licensee of payment instruments issued by the licensee.

33562. If the superintendent finds that any eligible security or class of eligible securities is not of sufficient liquidity or quality to be eligible securities, the superintendent may by regulation or order declare such security or class of securities to be ineligible.

33563. If the superintendent finds that any security or class of securities which is not an eligible security is of sufficient liquidity and quality to be an eligible security, the superintendent may by regulation or order declare such security or class of securities to be eligible securities.

33564. If the superintendent finds that a securities rating service:

(a) Has been continuously engaged in the business of rating securities for a period of not less than three years;

(b) Is competent to rate securities and is nationally recognized for

rating securities in a competent manner; and

(c) Publishes its ratings of securities on a nationwide basis:

The superintendent may by regulation or order declare such securities rating service to be an eligible securities rating service.

33565. If the superintendent finds that a rating assigned to a class of securities by an eligible securities rating service indicates that such class of securities is of sufficient quality to be eligible securities, the superintendent may by regulation or order declare such rating to be an eligible rating.

33566. If the superintendent finds that an account due to any licensee from any agent of such licensee on account of the sale by such agent of payment instruments issued by the licensee is, in view of the financial condition of the agent and of the licensee, the history of such account, and such other factors as may in the opinion of the superintendent be relevant, of sufficient quality to be an eligible security for the licensee, the superintendent may by order declare such account to be an eligible security for the licensee. However, in computing the value of any such account for purposes of Section 33567, there shall be excluded any amount due on account of the sale of a payment instrument if the time elapsed between such sale and the date of computation exceeds the average time that elapses between the time of sale and the time of payment of payment instruments issued by the licensee

33567. (a) Each licensee shall at all times own United States currency eligible securities having an aggregate value not less than the aggregate face amount of all reported outstanding United States currency payment instruments issued by it.

(b) Each licensee shall at all times own eligible securities having an aggregate value not less than the aggregate face amount of all reported outstanding foreign currency payment instruments issued by it.

33568. (a) In computing for purposes of Section 33567 the aggregate value of eligible securities owned by a licensee, there shall be excluded the value of any eligible security if and to the extent that the value of such eligible security, when combined with the aggregate value of all other eligible securities owned by such licensee which are issued or guaranteed by the same person or by any affiliate of the same person by whom such eligible security is issued or guaranteed, exceeds 10 percent of the aggregate value of all eligible securities owned by the licensee.

(b) Subdivision (a) shall not be deemed to require the exclusion of the value of any of the following eligible securities, and each of the following eligible securities shall be exempted from the limitations of subdivision (a):

(1) The following United States currency eligible securities:

(A) Cash.

(B) Any deposit in an office of an insured bank or of an insured savings and loan association, which office is located in the United States.

(C) Any bond, note, or other obligation for the payment of which the full faith and credit of the United States are pledged.

(2) Any eligible security which the superintendent, in view of the financial condition of the obligor or issuer and such other factors as may in the opinion of the superintendent be relevant, finds to be of such quality that exclusion of the value of such eligible security pursuant to subdivision (a) is not necessary for the purposes of this division and which the superintendent by regulation or order exempts from the limitations of subdivision (a).

33569. In computing for purposes of subdivision (b) of Section 33567 the aggregate value of foreign currency eligible securities owned by a licensee, there shall be excluded the value of any foreign currency eligible security if and to the extent that the value of such foreign currency eligible security, when combined with the value of all other foreign currency eligible securities owned by such licensee which are, or are denominated in, the same foreign currency as such foreign currency eligible security, exceed the aggregate face amount of all reported outstanding foreign currency payment instruments issued by the licensee which are denominated in such foreign currency.

33570. In the case of a licensee which is also licensed under Chapter 14A (commencing with Section 1851) of Division 1, the amount of aggregate value of eligible securities which such licensee is required to own under Section 33567 is in addition to the amount of aggregate value of eligible securities which the licensee is required to own under Section 1876.8. Whenever the amount of aggregate value of eligible securities owned by such a licensee is less than the sum of (a) the aggregate value required under Section 33567 and (b) the aggregate value required under Section 1876.8, such licensee shall be deemed to be in violation of Section 33567 and of Section 1876.8.

Article 4. Fidelity Bonds

33600. Each fidelity bond required by the superintendent pursuant to this article shall be issued by one or more corporations admitted to engage in the surety business in this state.

33601. Whenever the superintendent approves an application for a license, the superintendent may require, as a condition of such approval, if he finds that such condition is necessary for the protection of the interests of purchasers and holders of payment instruments issued by the applicant, that the applicant obtain and thereafter maintain a fidelity bond covering such persons, having such provisions, and providing coverage in such amounts, as the superintendent may specify.

33602. Whenever the superintendent finds that such order is necessary for the protection of the interests of purchasers and holders of payment instruments issued by a licensee which is not then required to maintain a fidelity bond, the superintendent may

order such licensee to obtain and thereafter maintain a fidelity bond covering such persons, having such provisions, and providing coverage in such amounts, as the superintendent may specify.

33603 Whenever the superintendent finds that it is appropriate or necessary for the protection of the interests of purchasers and holders of payment instruments issued by a licensee which is then required to maintain a fidelity bond that such licensee obtain and thereafter maintain a fidelity bond which differs from the former fidelity bond with respect to persons covered, amounts of coverage, or other provisions, the superintendent may by order relieve the licensee of the requirement that it maintain the former fidelity bond and require that the licensee obtain and thereafter maintain the latter fidelity bond

33604. Whenever the superintendent finds that it is no longer necessary for the protection of the interests of purchasers and holders of payment instruments issued by a licensee which is then required to maintain a fidelity bond that such licensee continue to maintain any fidelity bond, the superintendent may by order relieve the licensee of the requirement that it maintain any fidelity bond.

CHAPTER 6. AGENTS OF LICENSEES

Article 1 General Provisions

33700. No licensee shall appoint or continue any person as its agent, nor shall any person become or continue to be a California agent of a licensee, unless such licensee and such person shall have first made a written contract which shall contain the following provisions:

(a) That the licensee appoints the person as its agent with authority to sell on behalf of the licensee payment instruments issued by the licensee.

(b) (1) In case the person is a national banking association, a federal savings and loan association, or a federal credit union, provisions substantially corresponding with the provisions of Article 3 (commencing with Section 33730).

(2) In case the person is any California agent other than an agent of the type described in paragraph (1) of this subdivision, that the person shall comply with all applicable provisions of this division and of any regulation or order issued under this division.

(3) In case the person is any agent other than (i) an agent of the type referred to in paragraph (1) of this subdivision or (ii) a California agent:

(A) If the person is an insured bank, an insured savings and loan association, or an insured credit union, provisions substantially corresponding with the provisions of Article 3 (commencing with Section 33730); or

(B) If the person is neither an insured bank nor an insured savings and loan association nor an insured credit union, provisions

substantially corresponding with the provisions of Article 2 (commencing with Section 33720) which are applicable to California agents of a licensee and with the provisions of Article 3 (commencing with Section 33730).

(c) Such other provisions as the superintendent may find to be necessary to carry out the provisions and purposes of this division.

33701. Each licensee shall be liable as a principal for all acts of each of its California agents in selling and redeeming payment instruments issued by such licensee.

Article 2. Proceeds From Sales of Payment Instruments

33720 The provisions of this article do not apply with respect to any California agent which is an insured bank, an insured savings and loan association, or an insured credit union.

33721. No provision of this article shall be construed to prevent any licensee from taking any legal action necessary to enforce any claim which such licensee may have.

33722. All funds (less fees) received by any California agent of a licensee from the sale of any payment instrument issued by such licensee shall, from the time when such funds are received by such agent until the time when the funds or an equivalent amount is remitted by the agent to the licensee in accordance with Article 4 (commencing with Section 33740) of this chapter, constitute trust funds owned by and belonging to the licensee.

33723. No California agent of a licensee shall, nor shall any licensee cause or permit any of its California agents to, commingle any funds (less fees) received from the sale by such agent of any payment instrument issued by such licensee with any other property owned or controlled by the agent or use such funds for any purpose other than to remit the funds to the licensee in accordance with Article 4 (commencing with Section 33740) of this chapter; provided, however, that any California agent of a licensee may, before remitting funds (less fees) received from the sale by such agent of any payment instrument issued by such licensee in accordance with Article 4 of this chapter and unless the agent and the licensee provide to the contrary in the contract called for in Section 33700, commingle such funds with any other funds owned or controlled by it and use the funds in the ordinary course of its business for the purpose of making change or cashing payment instruments, checks, or drafts believed by it to be collectible.

33724 If any California agent of a licensee shall commingle any funds (less fees) received from the sale by such agent of any payment instrument issued by such licensee with any other property owned or controlled by the agent, all such property shall be impressed with a trust in favor of the licensee in an amount equal to the aggregate amount of such funds so commingled.

33725 No funds (less fees) received by any California agent of a licensee from the sale of any payment instrument issued by such

licensee, while held by such agent, nor any property impressed with a trust pursuant to Section 33724 shall be subject to attachment, levy of execution, or sequestration by order of any court, except for the benefit of the licensee.

Article 3. Reporting

33730. For purposes of this article, an agent of a licensee may report to such licensee a sale by such agent of a payment instrument issued by the licensee in such of the following ways as the licensee may specify for the agent:

(a) By depositing the report in the mail, addressed to the licensee at such address as the licensee may designate for such purpose, with not less than first-class postage charges prepaid; or

(b) By delivering the report to the licensee at such place as the licensee may designate for such purpose.

33731. Whenever any provision of this article requires a report by any agent of a licensee of the sale by such agent of a payment instrument issued by such licensee, such report shall contain the following information:

(a) The face amount and serial number of such payment instrument, and the face amount and serial number of any payment instrument issued by the licensee which the agent sold before selling such payment instrument and the sale of which the agent has not yet reported;

(b) In case the agent, at or before the time of any sale reported in the report, voided any payment instrument issued by the licensee and has not yet reported such voiding, the serial number of such payment instrument;

(c) In case the agent (i) is authorized to redeem on behalf of the licensee payment instruments issued by the licensee, (ii) did, at or before the time of any sale reported in the report, redeem any payment instrument issued by the licensee, and (iii) has not yet reported such redemption, the face amount and serial number of such payment instrument; and

(d) Such other information as the licensee (or, in the case of a report made under Section 33733, the superintendent) may provide.

33732. Each California agent of a licensee which sells any payment instrument issued by such licensee shall, and each licensee shall use its best efforts to require each of its agents which sells any payment instrument issued by such licensee to, report such sale to the licensee, as follows:

(a) (1) In case the aggregate face amount of payment instruments issued by the licensee which are sold by the agent does not in any calendar week exceed one thousand dollars ($1,000), within 10 business days after the sale; and

(2) In any other case, within seven days after the sale; or

(b) Such shorter period after the sale as the licensee may provide.

33733 Notwithstanding the provisions of Section 33732,

whenever a California agent of a licensee knows or has reason to know that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, such agent shall immediately report to the licensee (or to the superintendent, if the superintendent so orders) each sale by the agent of a payment instrument issued by the licensee which the agent has not yet reported under this article.

Article 4. Remitting

33740. The provisions of this article do not apply to any California agent which is an insured bank, an insured savings and loan association, or an insured credit union.

33741. For purposes of this article, a California agent of a licensee may remit funds to such licensee in such of the following ways as the licensee may specify for such agent:

(a) By depositing such funds in the mail, addressed to the licensee at such address as the licensee may designate for such purpose, with not less than first-class postage charges prepaid;

(b) By delivering such funds to the licensee at such place as the licensee may designate for such purpose; or

(c) By depositing such funds with an insured bank or an insured savings and loan association to the credit of an account maintained by the licensee in its name with such bank or savings and loan association for the purpose of receiving such funds.

33742. Each California agent of a licensee which sells any payment instrument issued by such licensee shall, and each licensee shall use its best efforts to require each of its California agents which sells any payment instrument issued by such licensee to, remit the face amount of such payment instrument to the licensee, as follows:

(a) (1) In case the aggregate face amount of payment instruments issued by the licensee which are sold by the agent does not in any calendar week exceed one thousand dollars ($1,000), within 10 business days after the sale; and

(2) In any other case:

(A) Within three business days after the sale; or

(B) Within a period longer than three business days after the sale, provided that the agent has previously deposited with, and during such period maintains on deposit with, an office of an insured bank or of an insured savings and loan association located in the United States in an account which is in the sole and exclusive name of the licensee an amount which, for each day by which such period exceeds three business days, is not less than the aggregate face amount of payment instruments issued by the licensee which the agent usually sells per day; or

(b) Within such shorter period after the sale as the licensee may provide

33743. Notwithstanding the provisions of Section 33742,

whenever a California agent of a licensee knows or has reason to know that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, such agent shall immediately remit to the licensee (or to the superintendent, if the superintendent so orders) the face amount of each payment instrument issued by the licensee and sold by the agent which the agent has not yet remitted under this article.

Article 5. Registration

33760. Each licensee shall, at the time when it becomes a licensee, register each of its California agents with the superintendent by filing with the superintendent a report regarding such agents.

33761. Whenever any licensee appoints any person as a California agent, such licensee shall, not more than 90 days after taking such action, register such agent with the superintendent by filing with the superintendent a report regarding the agent.

33762. Whenever any person who is a California agent of a licensee ceases for any reason to be a California agent of such licensee, the licensee shall, not more than 90 days thereafter, terminate the registration of the agent with the superintendent by filing with the superintendent a report regarding the agent.

Article 6. Termination

33780. If, after notice and a hearing, the superintendent finds that any California agent of a licensee or any director, officer, employee, or controlling person of such agent:

(a) Has violated any provision of this chapter or of any regulation or order issued under this chapter;

(b) Has engaged or participated in any unsafe or unsound act with respect to the business of selling payment instruments issued by the licensee; or

(c) Has made or caused to be made in any application or report filed with the superintendent or in any proceeding before the superintendent, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein:

The superintendent may issue an order suspending or barring such agent from continuing to be or becoming an agent of any licensee or of any person referred to in Section 33100(a), during the period for which such order is in effect.

33781. (a) In case a California agent of a licensee is a bank (other than a bank organized under the laws of this state), savings and loan association (other than a savings and loan association organized

under the laws of this state), or credit union, the superintendent shall not commence any administrative proceeding under Section 33780 against such agent unless the superintendent shall have first given notice of his intent to do so to the governmental agency having primary regulatory authority over the agent and unless, within such time as is in the opinion of the superintendent appropriate in the circumstances of the case (which time shall be specified in such notice), such governmental agency shall have refused or failed to effectuate corrective action by the agent which is satisfactory to the superintendent.

(b) No California agent of a licensee which is a bank, savings and loan association, or credit union shall have standing to raise the provisions of subdivision (a) as a defense in any administrative proceeding under Section 33780 or as a basis for challenging or for refusing to comply with any order issued under Section 33780.

33782. (a) Any licensee or person referred to in Section 33100(a) having as a California agent any person to whom an order is issued pursuant to Section 33780 shall, when such order becomes effective, immediately terminate such person as a California agent.

(b) No licensee or person referred to in Section 33100 (a) shall appoint as a California agent any person with respect to whom an order issued under Section 33780 is in effect.

33783 No person with respect to whom an order issued under Section 33780 is in effect shall become or continue to be a California agent of any licensee or of any person referred to in Section 33100(a).

33784. (a) Any person to whom an order is issued under Section 33780 may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless the superintendent finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if and when such person becomes a California agent of a licensee, comply with all applicable provisions of this division and of any regulation and order issued under this division.

(b) The right of any person to whom an order is issued under Section 33780 to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent pursuant to subdivision (a) to modify or rescind the order.

33785. No licensee shall appoint or continue as a California agent any person whom the Commissioner of Corporations has, pursuant to Section 12301.4, ordered a check seller licensed under Division 3 (commencing with Section 12000) to terminate as its agent, unless the Commissioner of Corporations shall have first, pursuant to Section 12301.4, vacated such order or given his written consent for any check seller licensed under Division 3 to appoint such person as its agent.

CHAPTER 7. RECORDS, REPORTS, AND EXAMINATIONS

33900. (a) Each licensee shall make, keep, and preserve within the United States such books, accounts, and other records in such form, in such manner, and for such time as the superintendent may by regulation or order specify.

(b) Each California agent of a licensee shall, and each licensee shall use its best efforts to require each of its California agents to, make and keep such records regarding sales by such agent of payment instruments issued by such licensee and related matters as may be necessary to show at any time the following:

(1) Face amount, serial number, and date of sale of each payment instrument sold, the sale of which the agent has not yet reported to the licensee under Article 3 (commencing with Section 33730) of Chapter 6;

(2) Serial number and date of voiding of each payment instrument voided, the voiding of which the agent has not yet reported to the licensee under Article 3 (commencing with Section 33730) of Chapter 6;

(3) In case the agent is authorized to redeem payment instruments on behalf of the licensee, face amount, serial number, and date of redemption of each payment instrument redeemed, the redemption of which the agent has not yet reported to the licensee under Article 3 (commencing with Section 33730) of Chapter 6;

(4) Total face amount and serial numbers of payment instruments sold, the sale of which the agent reported in its last report to the licensee under Article 3 (commencing with Section 33730) of Chapter 6;

(5) Total face amount and serial numbers of payment instruments sold, on account of which the agent has not yet remitted funds to the licensee under Article 4 (commencing with Section 33740) of Chapter 6; and

(6) Date on which the agent last remitted funds to the licensee under Article 4 (commencing with Section 33740) of Chapter 6 on account of payment instruments sold, total amount of such funds, and serial numbers of such payment instruments.

33901. Each licensee shall, not more than 90 days after the close of each of its fiscal years or within such longer period as the superintendent may by regulation or order specify, file with the superintendent a report containing:

(a) Financial statements (including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position) for or as of the end of such fiscal year, prepared with audit by an independent certified public accountant or an independent public accountant in accordance with generally accepted accounting principles;

(b) Report, certificate, or opinion of such independent certified public accountant or independent public accountant, stating that such financial statements were prepared in accordance with

generally accepted accounting principles; and

(c) Such other information as the superintendent may by regulation or order require.

33902. (a) Each licensee shall file with the superintendent such reports as and when the superintendent may by regulation or order require.

(b) In case the superintendent has initiated proceedings to issue, or has issued, an order imposing conditions upon the surrender of the license of a licensee under Section 34001, an order suspending or revoking the license of a licensee under Section 34109 or 34110, or an order taking possession of the property and business of a licensee under Section 34113, each California agent of such licensee shall, and the licensee shall use its best efforts to require each of its California agents to, file with the superintendent such reports regarding sales by such agent of payment instruments issued by the licensee and related matters, as and when the superintendent may by regulation or order require

(c) (1) Whenever the superintendent suspects that a licensee has violated, or is about to violate, any provision of this division or of any regulation or order issued under this division, the superintendent may by order require any director, officer, or employee of such licensee to file with the superintendent at the time specified in such order a report regarding such suspected violation and any related matters

(2) Each director, officer, and employee of a licensee to whom an order is issued under paragraph (1) of this subdivision shall, and such licensee shall use its best efforts to require each such director, officer, and employee to, comply with such order.

33903 (a) The superintendent may at any time examine any licensee.

(b) In case the superintendent has initiated proceedings to issue, or has issued, an order imposing conditions upon the surrender of the license of a licensee under Section 34001, an order suspending or revoking the license of a licensee under Section 34109 or 34110, or an order taking possession of the property and business of a licensee under Section 34113, the superintendent may examine any California agent of such licensee with respect to sales by such agent of payment instruments issued by the licensee and related matters.

(c) Any licensee or California agent of a licensee being examined by the superintendent shall, and each licensee shall use its best efforts to require each of its California agents being examined by the superintendent to, exhibit to the superintendent and permit the superintendent to copy, on request, any or all of the books, accounts, and other records of such licensee or such California agent, as the case may be, which may relate to such examination, and otherwise facilitate such examination so far as it may be in its power to do so.

(d) The superintendent may, if in the superintendent's opinion it is necessary in the examination of any licensee or of any California agent of a licensee, retain any certified public accountant, attorney,

appraiser, or other person to assist the superintendent, and such licensee shall pay, within 10 days after receipt of a statement from the superintendent, the fees of such person.

CHAPTER 8 VOLUNTARY SURRENDER OF LICENSE

34000. Any licensee may surrender its license by filing with the superintendent such license and a report

34001 (a) Except as otherwise provided in subdivision (b), a voluntary surrender of a license shall be effective on the 30th day after such license and the report called for in Section 34000 are filed with the superintendent or on such earlier date as the superintendent may by order specify.

(b) If a proceeding to revoke or suspend a license is pending at the time when such license and the report called for in Section 34000 are filed with the superintendent or if a proceeding to revoke or suspend a license or to impose conditions upon the surrender of a license is instituted before the 30th day after such license and the report called for in Section 34000 are filed with the superintendent, the voluntary surrender of such license shall become effective at such time and upon such conditions as the superintendent may by order specify

CHAPTER 9. ENFORCEMENT

34100. In this chapter, unless the context otherwise requires:

(a) "Office with a licensee" means the position of director, officer, employee, or agent of such licensee.

(b) "Subject person", when used with respect to a licensee, means·

(1) Any director, officer, employee, or agent of such licensee; or

(2) Any other person who participates in the conduct of the business of such licensee

34100.5. (a) No order issued by the superintendent under Section 34103, 34105, or 34106 shall become effective earlier than the 10th business day after the issuance of such order

(b) No order issued by the superintendent under subdivision (a) of Section 34104 or subdivision (a) or (b) of Section 34107 shall become effective earlier than the fifth business day after the issuance of such order

34101 (a) Whenever it appears to the superintendent that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this division or of any regulation or order issued under this division, the superintendent may bring an action in the name of the people of this state in the superior court to enjoin such violation or to enforce compliance with this division or with any regulation or order issued under this division Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a

receiver or conservator may be appointed for the defendant or the defendant's assets. The court may not require the superintendent to post a bond.

(b) Any receiver or conservator appointed by the court pursuant to subdivision (a) may, with the approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the superintendent or such receiver or conservator by reason of the exercise of such powers or the performance of such duties pursuant to the order, or with the approval of, the court.

(c) The superintendent may include in any action authorized under subdivision (a) a claim for ancillary relief, including a claim for restitution or damages on behalf of the persons injured by the act constituting the subject matter of such action, and the court shall have jurisdiction to award such additional relief.

34102. (a) If the superintendent finds that any person has violated, or that there is reasonable cause to believe that any person is about to violate, Section 33400, the superintendent may order such person to cease and desist from such violation unless and until such person is issued a license.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), the person to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such person consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any person to whom an order is issued under subdivision (a) to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent for hearing on the order pursuant to paragraph (1) of this subdivision.

34103. If, after notice and a hearing, the superintendent finds:

(a) That any licensee or any California agent of a licensee has engaged or participated, is engaging or participating, or that there is reasonable cause to believe that any licensee or any California agent of a licensee is about to engage or participate, in any unsafe or unsound act with respect to the business of such licensee; or

(b) That any licensee or any California agent of a licensee has violated, is violating, or that there is reasonable cause to believe that any licensee or any California agent of a licensee is about to violate, any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law.

The superintendent may order such licensee or such California agent to cease and desist from such action or violation. The order

may require the licensee or such California agent to take affirmative action to correct any condition resulting from the action or violation.

34104. (a) If the superintendent finds that any of the factors set forth in Section 34103 is true with respect to any licensee or any California agent of a licensee and that such action or violation is likely:

(1) To cause the insolvency of the licensee;

(2) To cause substantial dissipation of the assets or earnings of the licensee;

(3) To seriously weaken the condition of the licensee; or

(4) To otherwise seriously prejudice the interests of purchasers or holders of payment instruments issued by the licensee:

The superintendent may order such licensee or such California agent to cease and desist from such action or violation. Such order may require the licensee or the California agent to take affirmative action to correct any condition resulting from the action or violation.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any licensee or California agent of a licensee to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee or California agent consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any licensee or California agent of a licensee to whom an order is issued under subdivision (a) to petition for judicial review of such order shall not be affected by the failure of such licensee or California agent of a licensee to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision.

34105. If, after notice and a hearing, the superintendent finds:

(a) (1) That any subject person of a licensee has engaged or participated in any unsafe or unsound act with respect to the business of such licensee;

(2) That any subject person of a licensee has violated any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law relating to the business of such licensee; or

(3) That any subject person of a licensee has engaged or participated in any act which constitutes a breach of his fiduciary duty as a subject person; and

(b) (1) That such act, violation, or breach of fiduciary duty has caused or is likely to cause substantial financial loss or other damage to the licensee,

(2) That such action, violation, or breach of fiduciary duty has seriously prejudiced, or is likely to seriously prejudice, the interests of purchasers or holders of payment instruments issued by the

licensee; or

(3) That the subject person has received financial gain by reason of such act, violation, or breach of fiduciary duty; and

(c) That such act, violation, or breach of fiduciary duty either involves dishonesty on the part of the subject person or demonstrates the subject person's gross negligence with respect to the business of the licensee or a willful disregard for the safety and soundness of the licensee:

The superintendent may order the licensee to suspend or remove the subject person from his office, if any, with the licensee and to preclude such person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

34106. If, after notice and a hearing, the superintendent finds that any subject person of a licensee has, by engaging or participating in any act with respect to any financial or other business institution which resulted in financial loss or other damage, demonstrated:

(a) (1) Dishonesty;

(2) Gross negligence with respect to the operations of such institution; or

(3) Willful disregard for the safety and soundness of such institution; and

(b) Unfitness to continue as a subject person of such licensee or participate in the conduct of the business of such licensee:

The superintendent may order the licensee to remove the subject person from his office, if any, with the licensee and to preclude him from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

34107. (a) If the superintendent finds:

(1) That any subject person of a licensee has been charged in an indictment issued by a grand jury or in an information, complaint, or similar pleading issued by a United States attorney, district attorney, or other governmental official or agency authorized to prosecute crimes, with a crime which is punishable by imprisonment for a term exceeding one year and which involves dishonesty or breach of trust; and

(2) That such subject person's continuing to serve as a subject person of the licensee may pose a threat to the interests of purchasers or holders of payment instruments issued by the licensee or may threaten to impair public confidence in the licensee:

The superintendent may order such licensee to suspend such subject person from his office, if any, with the licensee and to preclude such person from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent. In case the criminal proceedings are terminated other than by a judgment of conviction, such order shall be deemed rescinded.

(b) If the superintendent finds:

(1) That any subject person or former subject person of a licensee with respect to whom an order was issued pursuant to subdivision (a) or any other subject person of a licensee has been finally convicted of a crime which is punishable by imprisonment for a term exceeding one year and which involves dishonesty or breach of trust; and

(2) That such person's continuing to serve or resumption of service as a subject person of the licensee may pose a threat to the interests of purchasers or holders of payment instruments issued by the licensee or may threaten to impair confidence in the licensee:

The superintendent may order such licensee to suspend or remove such subject person or former subject person from his office, if any, with the licensee and to preclude him from further participating in any manner in the conduct of the business of the licensee, except with the prior consent of the superintendent.

(c) (1) Within 30 days after an order is issued pursuant to subdivision (a) or (b), any licensee to which such order is issued or any subject person or former subject person of a licensee with respect to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee, subject person, or former subject person consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any licensee to which an order is issued under subdivision (a) or (b) or of any subject person or former subject person of a licensee with respect to whom such an order is issued to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision.

(d) The fact that any subject person of a licensee charged with a crime involving dishonesty or breach of trust is not finally convicted of such crime shall not preclude the superintendent from issuing an order regarding such licensee or such subject person pursuant to any other section of this division.

34108. (a) Any licensee to which an order is issued under Section 34105, 34106, or 34107 or any subject person or former subject person of a licensee with respect to whom such an order is issued may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless the superintendent finds that it is in the public interest to do so and that it is reasonable to believe that such subject person or former subject person will, if and when he becomes a subject person of a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any licensee to which an order is issued under Section 34105, 34106, or 34107 or any subject person or former subject

person of a licensee with respect to whom such an order is issued to petition for judicial review of such order shall not be affected by the failure of such licensee, subject person, or former subject person to apply to the superintendent pursuant to subdivision (a) to modify or rescind the order.

34109. If, after notice and a hearing, the superintendent finds:

(a) That any licensee has violated any provision of this division or of any regulation or order issued under this division or any provision of any other applicable law;

(b) That any licensee is conducting its business in an unsafe or unsound manner;

(c) That any licensee is in such condition that it is unsafe or unsound for it to transact the business of selling in this state payment instruments issued by it;

(d) That any licensee has ceased to transact the business of selling in this state payment instruments issued by it;

(e) That any licensee is insolvent;

(f) That any licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;

(g) That any licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any such relief under any such law against any licensee and such licensee has by any affirmative act approved of or consented to such action or such relief has been granted; or

(h) That any fact or condition exists which, if it had existed at the time when any licensee applied for its license, would have been grounds for denying such application:

The superintendent may issue an order suspending or revoking the license of such licensee.

34110. (a) If the superintendent finds that any of the factors set forth in Section 34109 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of payment instruments issued by such licensee or for the protection of the public interest that he immediately suspend or revoke the license of such licensee, the superintendent may issue an order suspending or revoking the license of such licensee.

(b) (1) Within 30 days after an order is issued pursuant to subdivision (a), any licensee to whom such order is issued may file with the superintendent an application for a hearing on the order. If the superintendent fails to commence such hearing within 15 business days after such application is filed with the superintendent (or within such longer period to which such licensee consents), the order shall be deemed rescinded. Within 30 days after the hearing, the superintendent shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded.

(2) The right of any licensee to which an order is issued under subdivision (a) to petition for judicial review of such order shall not

be affected by the failure of such licensee to apply to the superintendent for a hearing on the order pursuant to paragraph (1) of this subdivision.

34111. Any person whose license is suspended or revoked shall immediately deliver such license to the superintendent.

34112. (a) Any person to whom an order is issued under Section 34109 or 34110 may apply to the superintendent to modify or rescind such order. The superintendent shall not grant such application unless he finds that it is in the public interest to do so and that it is reasonable to believe that such person will, if and when it becomes a licensee, comply with all applicable provisions of this division and of any regulation or order issued under this division.

(b) The right of any person to whom an order is issued under Section 34109 or 34110 to petition for judicial review of such order shall not be affected by the failure of such person to apply to the superintendent pursuant to subdivision (a) to modify or rescind the order.

34113. (a) If the superintendent finds that any of the factors set forth in Section 34109 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of payment instruments issued by such licensee or for the protection of the public interest that he take immediate possession of the property and business of the licensee, the superintendent may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the superintendent, resume business upon such conditions as he may prescribe.

(b) (1) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), such licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the superintendent to show cause why further proceedings should not be enjoined and after a hearing, dismiss such application or enjoin the superintendent from further proceedings and order him to surrender the property and business of the licensee to the licensee or make such further order as may be just.

(2) The judgment of the superior court may be appealed by the superintendent or by the licensee in the manner provided by law for appeals from the judgment of a superior court. In case the superintendent appeals the judgment of the superior court, such appeal shall operate as a stay of the judgment and the superintendent shall not be required to post any bond.

(c) Whenever the superintendent takes possession of the property and business of a licensee pursuant to subdivision (a), the superintendent shall conserve or liquidate the property and business

of such licensee pursuant to Article 1 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of such article (except Sections 3100, 3101, and 3102) shall apply as if such licensee were a bank.

34114. (a) No California agent of a licensee who has actual notice that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, shall sell any payment instrument issued by the licensee.

(b) If any California agent of a licensee, after first having actual notice that the superintendent has suspended or revoked the license of such licensee or that the superintendent has issued an order taking possession of the property and business of the licensee, sells any payment instrument issued by the licensee, such agent shall be jointly and severally liable with the licensee for the payment of such payment instrument.

34115. In case any person engages in the business of selling in this state any payment instruments that are issued by a second person which is neither (i) a licensee which is licensed to sell such payment instruments and for which the first person is an agent nor (ii) a person which is referred to in subdivision (a) of Section 33100, which is permitted to sell such payment instruments under the paragraph of subdivision (a) of Section 33100 applicable to it, and for which the first person is an agent, the first person shall be jointly and severally liable as a comaker with the second person for the payment of each such payment instrument.

CHAPTER 10. CRIMINAL PENALTIES

34200. Nothing in this division limits the power of the state to punish any person for any act which constitutes a crime under any statute.

34201. Any person who willfully violates Section 33222 or 33400 shall upon conviction be fined not more than ten thousand dollars ($10,000) or be imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment.

CHAPTER 11. CIVIL PENALTIES

34300. If, after notice and a hearing, the superintendent finds that any person has violated any provision of this division or of any regulation or order issued under this division, the superintendent may order such person to pay to the superintendent a civil penalty in such amount as the superintendent may specify; provided, however, that the amount of such civil penalty shall not exceed one thousand dollars ($1,000) for each violation or, in the case of a continuing violation, one thousand dollars ($1,000) for each day for which such violation continues.

34301. The provisions of Section 34300 are additional to, and not alternative to, other provisions of this division which authorize the superintendent to issue orders or to take other action on account of a violation of any provision of this division or of any regulation or order issued under this division. However, no person who has been finally convicted under Chapter 10 (commencing with Section 34200) of this division on account of any violation of Section 33222 or 33400 shall be liable to pay a civil penalty under Section 34300 on account of such violation, nor shall any person who has paid a civil penalty under Section 34300 on account of any violation of Section 33222 or 33400 be liable to criminal prosecution under Chapter 10 on account of such violation.

SEC. 8. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank in this state, such police or sheriff's department or district attorney may request a bank to furnish, and a bank shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(i) The number of items dishonored;

(ii) The number of items paid which created overdrafts;

(iii) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank and customer to pay overdrafts;

(iv) The dates and amounts of deposits and debits and the account balance on such dates;

(v) A copy of the signature and any addresses appearing on a customer's signature card; and

(vi) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, or a police or sheriff's department or district attorney from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function

shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the State Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of:

(1) The information required by Sections 6702, 8954, 30313, 32383, 38502, and 40153 of the Revenue and Taxation Code; or

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(g) The disclosure to the State Controller of the information required by Section 7853 of the Revenue and Taxation Code.

SEC. 9. In Sections 10 to 15, inclusive, of this act:

(a) "Payment instrument" has the meaning set forth in Financial Code Section 33059, as added by Section 7 of this act.

(b) "Superintendent" has the meaning set forth in Financial Code Section 33063, as added by Section 7 of this act.

(c) "Transition date" means 12:01 a.m., April 2, 1979.

(d) "Transmitters Law" means Article 3 (commencing with Section 1800), Chapter 14, Division 1 of the Financial Code, as in effect on December 31, 1978

(e) "Travelers check" has the meaning set forth in Financial Code Section 33064, as added by Section 7 of this act.

SEC. 10. Section 1 of this act shall become operative on January 1, 1979

SEC. 10.5. Sections 2 to 4, inclusive, of this act shall become operative on the transition date

SEC 10.9. Section 4.5 of this act shall become operative on

January 1, 1979. However, during the period from January 1, 1979, to the transition date, Financial Code Section 1853, as added by Section 4.5 of this act, shall not be deemed to prohibit any person which is then licensed under the Transmitters Law from engaging in the business of issuing travelers checks.

SEC. 11. (a) Section 5 of this act shall become operative on January 1, 1979.

(b) Section 5 of this act is repealed, operative on the transition date.

SEC. 12. Section 6 of this act shall become operative on the transition date.

SEC. 13. Section 7 of this act shall become operative on January 1, 1979. However, during the period from January 1, 1979, to the transition date, Financial Code Section 33400, as added by Section 7 of this act, shall not be deemed to prohibit any person which is then licensed under Transmitters Law from engaging in the business of selling in this state payment instruments issued by it or any agent of such licensee from engaging in the business of selling in this state payment instruments issued by such licensee.

SEC. 14. The provisions of paragraph (2) of subdivision (b) of Financial Code Section 33403, as added by Section 7 of this act, shall not apply to any application for a license under Division 16 (commencing with Section 33000) of the Financial Code, as added by Section 7 of this act, that is filed with the superintendent during the period from January 1, 1979, to the transition date by a corporation which, on the date of such filing, is licensed under the Transmitters Law and which, during the period from March 1, 1978, to the date of such filing, has been continuously engaged in the business of selling (directly or indirectly through agents) in this state payment instruments issued by it.

SEC. 14.1. During the period from January 1, 1979, to December 31, 1981, the provisions of subdivision (a) of Financial Code Section 33521, as added by Section 7 of this act, shall not apply to any payment instrument which:

(a) Is issued by a corporation which is licensed under Division 16 (commencing with Section 33000) of the Financial Code, as added by Section 7 of this act, and which was, as of December 31, 1978, licensed under the Transmitters Law; and

(b) Is in the same form as any payment instruments which were issued by such corporation and which such corporation was continuously engaged in the business of selling (directly or indirectly through agents) in this state during the period from March 1, 1978, to December 31, 1978.

SEC. 15. Section 8 of this act shall become operative on January 1, 1979.

SEC. 16. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a

variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 17. It is the intent of the Legislature, if this bill and Assembly Bill No. 2181 are both chaptered and become effective January 1, 1979, both bills amend Section 12100 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2181, that Section 12100 of the Financial Code, as amended by Section 6 of this act shall remain operative only until the operative date of Assembly Bill No. 2181, and that on the operative date of Assembly Bill No. 2181, Section 12100 of the Financial Code as amended by Section 6 of this act be further amended in the form set forth in Section 6.5 of this act to incorporate the changes in Section 12100 proposed by Assembly Bill No. 2181. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill No. 2181 are both chaptered and become effective January 1, 1979, both bills amend Section 12100 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2181, in which case Section 6 5 of this act shall become operative on the operative date of Assembly Bill No. 2181.

CHAPTER 1348

An act to amend Section 1094.5 of the Code of Civil Procedure, relating to private boards.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was

any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding the provisions of subdivision (c), in cases arising from private hospital boards, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. Provided, however, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of such allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall

be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

(h) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any licensing board respecting any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, except Chapter 11 (commencing with Section 4800) thereof, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that such stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or the licensing board is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during

the pendency of such proceedings.

CHAPTER 1349

An act to amend Section 40465 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 40465 of the Health and Safety Code is amended to read:

40465. The plan shall become effective on June 1, 1979, and as submitted shall be approved by the state board by that date unless it finds, after a public hearing, that the plan does not include all reasonable and available methods to achieve and maintain the state ambient air quality standards. Upon such a finding, the state board shall revise the submitted plan accordingly and approve the plan as revised by June 1, 1979. The state board shall not require as a condition of approval of the plan, nor revise the submitted plan to include, any indirect source review program or other land use control measure.

CHAPTER 1350

An act to amend Section 40000.25 of, to add Section 40303.5 to, and to add Article 4 (commencing with Section 40610) to Chapter 2 of Division 17 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 40000.25 of the Vehicle Code is amended to read:

40000.25. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Section 40005, relating to owner's responsibility.

Section 40504, relating to false signatures.

Section 40508, relating to failure to appear or to pay fine.

Section 40519, relating to failure to appear.

Section 40614, relating to use of a fictitious name.

Section 40616, relating to a willful violation of a notice to correct.

Section 42005, relating to failure to attend traffic school.

SEC. 2. Section 40303.5 is added to the Vehicle Code, to read:

40303 5. Whenever any person is arrested for any of the following offenses, and all of the conditions set forth in subdivision (b) of Section 40610 are met, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610:

(a) Any registration infraction set forth in Division 3 (commencing with Section 4000).

(b) Any driver's license infraction set forth in Division 6 (commencing with Section 12500), and subdivision (a) of Section 12951, relating to possession of driver's license.

(c) Section 21201, relating to bicycle equipment.

(d) Any infraction involving equipment set forth in Division 12 (commencing with Section 24000).

SEC. 3. Article 4 (commencing with Section 40610) is added to Chapter 2 of Division 17 of the Vehicle Code, to read:

Article 4. Notice to Correct Violation

40610. (a) If after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and all of the conditions set forth in subdivision (b) are met and the investigating officer decides to take enforcement action, he shall prepare, in triplicate, and the violator shall sign, a written notice containing his or her promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(b) Use of the notice to correct violation as provided by this section is authorized when all of the following conditions exist:

(1) The violation does not evidence fraud or persistent neglect.

(2) The violation has not presented and does not present an immediate safety hazard.

(3) The alleged violator agrees to, and is able to, promptly correct the violation.

(4) The violation does not involve a vehicle subject to regulation under Division 14.8 (commencing with Section 34500).

(c) If any of the conditions set forth in subdivision (b) are not met, the investigating officer may issue a notice to appear in accordance with Article 2 (commencing with Section 40500) of this chapter, or take other appropriate enforcement action.

(d) The notice to correct violation shall be in a form approved by the Judicial Council, and in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

40612 An exact, legible copy of the notice to correct shall be delivered to the alleged violator at the time he or she signs such notice

40614 Any person who signs a notice to correct or a certificate

of correction with a false or fictitious name is guilty of a misdemeanor.

40616. Any person willfully violating a written promise to correct or willfully failing to deliver proof of correction of violation is guilty of a misdemeanor. Proof of correction may consist of a certification by an authorized representative of one of the following agencies that the alleged violation has been corrected:

(a) Brake, lamp, smog device, or muffler violations may be certified as corrected by any station licensed to inspect and certify for the violation pursuant to Article 8 (commencing with Section 9889.15) of Chapter 20.3 of Division 3 of the Business and Professions Code and Section 27150.2.

(b) Driver license and registration violations may be certified as corrected by the Department of Motor Vehicles.

(c) Any violation may be certified as corrected by a police department, the California Highway Patrol, sheriff, marshal, or other law enforcement agency regularly engaged in enforcement of the provisions of the Vehicle Code.

40618. Whenever proof of correction of violation is not received by the issuing agency in accordance with Section 40610, the issuing agency may deliver the signed promise to the court having jurisdiction of the violation with a certification that no proof of correction has been received. If prepared on a form approved by the Judicial Council, the promise under Section 40610, together with the certification under this section, shall constitute a complaint to which the defendant may enter a plea, and upon which a warrant may be issued if the complaint is verified.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 5. This act shall become operative on July 1, 1979.

CHAPTER 1351

An act to amend Sections 50003, 50407, 50464, 50500, 50517, 50532, 50533, 50952, 51057, 51301, and 51302 of, and to add Sections 50093.5 and 50961 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 50003 of the Health and Safety Code is amended to read:

50003. The Legislature finds and declares that, as a result of public actions involving highways, public facilities, and urban renewal projects, and as a result of poverty and the spread of slum conditions and blight to formerly sound neighborhoods, there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income, including the elderly and handicapped, can afford. This shortage is inimical to the safety, health, and welfare of the residents of this state and the sound growth of its communities. Private enterprise and investment, without the assistance contemplated in this division, is not disposed to provide, nor can it economically achieve, the needed construction of decent, safe, and sanitary housing at rentals which persons and families of low and moderate income can afford and the urgently needed rehabilitation of existing housing

In order to remedy such housing shortages, it is necessary to implement a public program incorporating the following elements and goals.

(a) A reduction in the cost of mortgage financing for rental housing to provide lower rent for persons and families of low or moderate income.

(b) A reduction in the cost of mortgage financing for home purchases, in order to make homeownership feasible for persons and families of low or moderate income.

(c) The availability of mortgage financing in geographical areas in which private lenders have been unable or unwilling to commit sufficient funds for residential lending.

(d) The provision of assistance and encouragement with respect to residential construction and rehabilitation by private enterprise which will house persons of varied economic means in the same structures and neighborhoods, thereby alleviating and contributing to the permanent elimination of slum conditions.

(e) An increase in the supply of housing available to the elderly and handicapped and large families

(f) Encouragement and assistance of housing and community development in rural areas and among Indian residents of the state.

(g) Encouragement of mutual self-help housing projects, home management training, and relocation assistance.

(h) Maximum utilization of federal subsidies available to meet housing needs of very low income households and persons and families of low and moderate income.

(i) The provision to local governments of the financial resources, statistical data, and technical assistance needed to assist them in meeting housing needs within their respective jurisdictions. The term "financial resources," as used in this subdivision, means

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proceeds from the sale of bonds by the agency and federal assistance made available to the agency for any of the purposes of this division.

(j) Encourage and assist housing and community development in public transit corridors where they exist.

SEC. 2. Section 50093.5 is added to the Health and Safety Code, to read:

50093.5. "Public transit corridor" means that area within one-quarter mile of a route on which regularly scheduled public mass transit service stops are located, or within one-quarter mile of an existing or planned public mass transit guideway or busway station, or within one-quarter mile of a multimodal transportation terminal serving public mass transit operations.

SEC. 2.5. Section 50407 of the Health and Safety Code is amended to read:

50407. The department shall be the principal state department responsible for coordinating federal-state relationships in housing and community development, except for housing finance. The department shall continually evaluate the impact upon the state of federal policies and programs affecting housing and community development and encourage full utilization of federal programs available for assisting the residents of this state, the private housing industry, and local public entities in satisfying housing and community development needs in this state. Such evaluation shall include an assessment of the coordination between federal housing assistance and public transit service availability.

SEC. 2.7. Section 50407 of the Health and Safety Code is amended to read:

50407. The department shall be the principal state department responsible for coordinating federal-state relationships in housing and community development, except for housing finance. The department shall be the principal state department responsible for implementation of the California Statewide Housing Plan. The department shall continually evaluate the impact upon the state of federal policies and programs affecting housing and community development and encourage full utilization of federal programs available for assisting the residents of this state, the private housing industry, and local public entities in satisfying housing and community development needs in this state Such evaluation shall include an assessment of the coordination between federal housing assistance and public transit service availability. The department shall encourage and assist housing and community development in rural areas and among Indian residents of the state. The department shall encourage mutual self-help projects, home management training, and relocation assistance. The department shall promote maximum utilization of federal subsidies available to meet housing needs of very low income households and other persons and families of low or moderate income, or both. The department shall assist communities and persons to avail themselves of state housing programs.

SEC. 3. Section 50464 of the Health and Safety Code is amended to read:

50464. The department may:

(a) Make investigations of housing and community development in California.

(b) Call conferences of representatives of all levels of government, industry, and private groups, to discuss housing and community development problems of California.

(c) Investigate and report upon substandard housing and the problems resulting therefrom and the work being done to remedy such conditions.

(d) Study the operation and enforcement of housing, building, zoning, and subdivision laws and regulations, of housing finance, taxes, redevelopment programs and public housing projects, as related to housing and community development.

(e) Examine the records of housing authorities and redevelopment agencies, and secure from them reports and copies of their records at any time.

(f) Promote the formation of organizations intended to increase the supply of adequate housing and the proper living environment for all the people of the state.

(g) With the Department of Transportation, investigate and report upon the consistency between state, local, and federal housing plans and programs and state, local, and federal transportation plans and programs.

SEC. 3.5. Section 50500 of the Health and Safety Code is amended to read:

50500. The department may, upon receipt of a request of a local public entity, provide advisory assistance or staffing for development of new and rehabilitated housing for persons and families of low or moderate income, the elderly, and persons displaced by governmental action, and in the development of programs to correct or eliminate blight and deterioration and to effect community development or redevelopment. In providing such advisory assistance, the department shall encourage, to the extent possible, the location of housing developments in proximity to public transit service and, in assisting with programs of neighborhood rehabilitation, shall consider the availability of such services.

The department may contract with a local public entity to provide any necessary staff services associated with, or required by, a local public entity and which could be performed by the staff of a redevelopment agency or housing authority.

The department may provide technical assistance in developing housing for students and faculty of universities and colleges upon the request of a potential housing sponsor, or at the request of the governing board or other agency of a university or college.

SEC. 4. Section 50517 of the Health and Safety Code is amended to read:

50517. The Housing Predevelopment Loan Fund shall be

administered by the director and such persons within the department as the director may designate.

The revolving loan fund shall be administered in accordance with the following:

(a) The department may not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time

(b) The department shall require adequate security for all loans made from the revolving loan fund. The term "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option except that in the case of Indian Trust Land a mortgage on a leasehold interest in the property shall be acceptable

(c) The department shall, from time to time, direct the State Treasurer to invest moneys of the revolving loan fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the State Treasurer to deposit moneys from the revolving loan fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the revolving loan fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4 Title 2 of the Government Code. All interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the Housing Predevelopment Loan Fund.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the revolving loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each local governmental agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed to improve operations of the revolving loan fund, and (7) the public transportation services conveniently available to assisted households.

(e) All loans made from the Housing Predevelopment Loan Fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

SEC 5. Section 50532 of the Health and Safety Code is amended to read:

50532 (a) The department shall require adequate security for

all loans made from the loan fund. For purposes of this subdivision "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(b) No loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by the nonprofit corporation or local agency for construction financing or long-term financing that will permit occupancy as specified in Section 50531. The department shall not approve loans exceeding fifty thousand dollars ($50,000), exclusive of payments for purchase of real property as may be approved by the department. The department shall not approve loans, including payments for options or deposits on contracts of purchase for a term less than 18 months or in an amount in excess of 10 percent of the purchase price.

(c) (1) Except as provided in paragraph (2) of this subdivision, all loans made from the loan fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the Pooled Money Investment Board for the past five fiscal years immediately preceding the year in which the loan payment is made.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low-income households. However, if the department eliminates interest on a loan, it shall charge a loan origination fee, not to exceed 2 percent of the loan amount.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units. (4) the number and amount of loans made to each agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed, to improve operations of the fund, and (7) the location of housing developments aided in relation to public transit corridors.

(e) Other things being equal, the department shall give priority to assisting developments which will be located in public transit corridors.

SEC. 6. Section 50533 of the Health and Safety Code is amended to read:

50533. On or before January 31, 1980, the Secretary of the Business and Transportation Agency shall undertake a review of the operation of the Urban Housing Development Loan Fund and shall determine, by written findings, whether or not the loan fund is being

used for the purposes intended and is effective in promoting the development of assisted housing for persons of low income. Such findings shall also contain an evaluation of whether the amount of moneys in the loan fund is appropriate for the accomplishment of the purposes of this chapter The secretary shall determine whether the limitation of urban housing development loans solely to public transit corridors would have a detrimental effect on implementation of the loan fund's program objectives. Such written findings shall be submitted to the Speaker of the Assembly and the President pro Tempore of the Senate and the chairman of the committee in each house which considers appropriations on or before January 31, 1980.

If the secretary submits such written findings on or before January 31, 1980, and determines that the loan fund is not being used for the purposes intended or is ineffective in promoting the development of assisted housing for persons of low income, then he may terminate the department's authority to loan moneys from the loan fund effective January 31, 1980, in which case the loan fund shall be dissolved on January 1, 1981, and all moneys therein, or payable thereto under this chapter, shall be paid into the General Fund in the State Treasury.

SEC 7 Section 50952 of the Health and Safety Code is amended to read:

50952 The agency shall also seek to attain the following objectives·

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities of low income and low-income persons, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Identification of areas of low-vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(f) A balance between metropolitan, nonmetropolitan, and rural housing developments, and between family housing and housing for

the elderly and handicapped, in general proportion to the needs identified in the statewide housing plan.

(g) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(h) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(i) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(j) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(k) Location of housing in public transit corridors with high levels of service.

SEC. 7.1. Section 50952 of the Health and Safety Code is amended to read:

50952. The agency shall also seek to attain the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities in lower income households and other lower income households, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Reducing the cost of mortgage financing for rental and cooperative housing to provide lower rent for persons and families of low or moderate income.

(f) Reducing the cost of mortgage financing for home purchase, in order to make homeownership feasible for persons and families of low or moderate income.

(g) Identification of areas of low-vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and

maintenance of local economic activity.

(h) A balance between urban metropolitan, nonmetropolitan, and rural metropolitan housing developments, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the California Statewide Housing Plan

(i) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(j) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(k) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(*l*) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(m) Revitalization of deteriorating and deteriorated urban areas by attracting a full range of income groups to central-city areas to provide economic integration with persons and families of low or moderate income in such areas.

(n) Implementation of the goals, policies, and objectives of the California Statewide Housing Plan.

(o) Location of housing in public transit corridors with high levels of service.

SEC 7.3. Section 50952 of the Health and Safety Code is amended to read:

50952 The agency shall also seek to attain the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities of low income and low-income persons, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Identification of areas of low-vacancy rates where

construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(f) A balance between metropolitan, nonmetropolitan, and rural housing developments, between geographic areas of the state with attention to specific county needs and balance, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the statewide housing plan.

(g) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(h) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income

(i) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(j) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(k) Location of housing in public transit corridors with high levels of service.

SEC. 7.5. Section 50952 of the Health and Safety Code is amended to read.

50952. The agency shall also seek to attain the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families of low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities in lower income households and other lower income households, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Reducing the cost of mortgage financing for rental and cooperative housing to provide lower rent for persons and families of low or moderate income.

(f) Reducing the cost of mortgage financing for home purchase, in order to make homeownership feasible for persons and families of low or moderate income.

(g) Identification of areas of low-vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(h) A balance between urban metropolitan, nonmetropolitan, and rural metropolitan housing developments, between geographic areas of the state with attention to specific county needs and balance, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the California Statewide Housing Plan.

(i) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(j) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(k) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(*l*) Promoting the recovery and growth of economically depressed business located in areas of minority concentration and in mortgage-deficient areas.

(m) Revitalization of deteriorating and deteriorated urban areas by attracting a full range of income groups to central-city areas to provide economic integration with persons and families of low or moderate income in such areas.

(n) Implementation of the goals, policies, and objectives of the California Statewide Housing Plan.

(o) Location of housing in public transit corridors with high levels of service.

SEC. 8. Section 50961 is added to the Health and Safety Code, to read:

50961. It shall be the policy of the agency to encourage housing location in public transit corridors so that residents may have convenient access to public transportation services.

SEC. 9. Section 51057 of the Health and Safety Code is amended to read:

51057. Prior to the commitment of moneys under this part for the financing of a housing development as provided in Articles 1 to 4 inclusive, of Chapter 5 (commencing with Section 51100) of this part, the agency shall take adequate measures to assure (a) the economic feasibility of the housing development, (b) the financial eligibility of the housing sponsors and tenants, (c) the consistency of the proposed

housing development with the current housing objectives of the agency, (d) the sufficiency of access of the housing development to supporting social services, public mass transit services and other transportation, schools, employment, and retail merchants, and (e) that the location of the proposed housing development is consistent with the agency's policies of dispersing housing developments throughout communities and of avoiding undue concentration of persons and families of low income. Wherever possible, the agency shall verify such facts before financing is committed.

In providing for dispersal of housing developments, the agency shall consider economic feasibility, which shall be determined in light of all relevant factors, including the assistance programs and funds which could be utilized to reduce costs. Nothing in this section shall prohibit the agency from financing housing developments in neighborhood preservation areas in a manner that would otherwise be in conflict with the agency's policies respecting dispersal of housing developments or concentration of persons and families of low income, where necessary to accomplish the purposes for which financing or loan insurance is made available by the agency in such an area.

SEC 9.5. Section 51057 of the Health and Safety Code is amended to read:

51057. Prior to the commitment of moneys under this part for the financing of a housing development as provided in Articles 1 to 4, inclusive, of Chapter 5 (commencing with Section 51100) of this part, the agency shall take adequate measures to assure (a) the economic feasibility of the housing development, (b) the financial eligibility of the housing sponsors and tenants, (c) the consistency of the proposed housing development with the current housing objectives of the agency, (d) the sufficiency of access of the housing development to supporting social services, public mass transit services and other transportation, schools, employment, and retail merchants, and (e) that the location of the proposed housing development is consistent with the agency's policies of dispersing housing developments throughout communities and of avoiding undue concentration of lower income households. Wherever possible, the agency shall verify such facts before financing is committed.

In providing for dispersal of housing developments, the agency shall consider economic feasibility, which shall be determined in light of all relevant factors, including the assistance programs and funds which could be utilized to reduce costs. Nothing in this section shall prohibit the agency from financing housing developments in neighborhood preservation areas in a manner that would otherwise be in conflict with the agency's policies respecting dispersal of housing developments or concentration of lower income households, where necessary to accomplish the purposes for which financing or loan insurance is made available by the agency in such an area.

SEC 10. Section 51301 of the Health and Safety Code is amended to read

51301. The agency shall, after public hearings, establish priorities for the allocation of financing assistance pursuant to this chapter among eligible areas and counties and cities throughout the state. In so doing, the agency shall take into account the following factors, to the extent applicable·

(a) The impact of financing assistance in upgrading substandard residential structures to decent, safe, and sanitary condition.

(b) The impact of financing assistance in stablilizing urban neighborhoods and preventing or arresting the process of deterioration.

(c) The impact of financing assistance in effectuating the efficient utilization of commitments of housing subsidies, thereby increasing housing opportunities for low and very low income households.

(d) The impact of financing assistance in complementing the local utilization of community development funds made available pursuant to Title 1 of the Housing and Community Development Act of 1974 (Public Law 93-383).

(e) The availability and feasibility of alternative means to achieve substantially the same results as financing assistance provided pursuant to this chapter.

(f) The availability of efficient and effective public mass transit service for the residents of the neighborhood assisted. Other things being equal, preference shall be given to preserving neighborhoods where efficient and effective public mass transit service exists.

SEC. 10 5 Section 51301 of the Health and Safety Code is amended to read:

51301. The agency shall, after public hearings, establish priorities for the allocation of financing assistance pursuant to this chapter among eligible areas and counties and cities throughout the state. In so doing, the agency shall take into account the following factors, to the extent applicable:

(a) The impact of financing assistance in upgrading substandard residential structures to decent, safe, and sanitary condition.

(b) The impact of financing assistance in stabilizing urban neighborhoods and preventing or arresting the process of deterioration.

(c) The impact of financing assistance in effectuating the efficient utilization of commitments of housing subsidies, thereby increasing housing opportunities for lower income households and very low income households.

(d) The impact of financing assistance in complementing the local utilization of community development funds made available pursuant to Title 1 of the Housing and Community Development Act of 1974 (Public Law 93-383).

(e) The availability and feasibility of alternative means to achieve substantially the same results as financing assistance provided pursuant to this chapter.

(f) The availability of efficient and effective public mass transit

service for the residents of the neighborhood assisted. Other things being equal, preference shall be given to preserving neighborhoods where efficient and effective public mass transit service exists.

SEC. 11. Section 51302 of the Health and Safety Code is amended to read:

51302 Upon application by a local agency supplying such supporting information and data as the agency may require, the agency may designate an area within a city or county as a concentrated rehabilitation area if it makes the following findings:

(a) The area was selected by the legislative body after citizen participation

(b) The area is an area of substantial deterioration of residential structures, as evidenced by a significant number of older and deteriorating residential structures in such area requiring rehabilitation.

(c) Rehabilitation assistance is necessary to enable and encourage residents in such area to cooperate in a local program of concentrated enforcement of rehabilitation standards.

(d) Rehabilitation of residential structures will arrest deterioration in the area.

(e) Rehabilitation of residential structures in the area is economically feasible.

(f) The local agency has offered to contract with the agency to (1) provide necessary supporting neighborhood public improvements and services, such as street improvements, landscaping and acquisition of open space, undergrounding of utility lines, and construction of drainage facilities in the area for which eligibility has been requested, and (2) provide concentrated and continuing enforcement of rehabilitation standards in such area.

(g) The local agency has agreed to make every effort to prevent unnecessary displacement in accomplishing rehabilitation and has an adequate program of relocation advisory assistance for persons unavoidably displaced due to rehabilitation.

(h) The supply of housing available to very low income households at affordable rents and the supply of housing available to other persons and families of low or moderate income at affordable rents will not be reduced within the area because those displaced will receive relocation payments and be able to obtain standard housing in the area Alternatively, standard housing will be available at affordable rents in equally desirable neighborhoods, expanding the range of housing opportunities for minority and low-income persons.

(i) The local agency has adopted a housing element in compliance with Section 65302 of the Government Code, and with housing element guidelines, which sets forth an effective plan for systematic enforcement of state and local building and housing standards throughout its jurisdiction.

(j) The application is consistent with local housing assistance plans adopted pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

(k) The local agency has satisfied such other pertinent criteria as the agency may by regulation require.

(*l*) The local agency has investigated the current and planned levels of public transit service for the area.

SEC. 11 5. Section 51302 of the Health and Safety Code is amended to read:

51302. Upon application by a local agency supplying such supporting information and data as the agency may require, the agency may designate an area within a city or county as a concentrated rehabilitation area if it makes the following findings:

(a) The area was selected by the legislative body after citizen participation.

(b) The area is an area of substantial deterioration of residential structures, as evidenced by a significant number of older and deteriorating residential structures in such area requiring rehabilitation.

(c) Rehabilitation assistance is necessary to enable and encourage residents in such area to cooperate in a local program of concentrated enforcement of rehabilitation standards.

(d) Rehabilitation of residential structures will arrest deterioration in the area.

(e) Rehabilitation of residential structures in the area is economically feasible.

(f) The local agency has offered to contract with the agency to (1) provide necessary supporting neighborhood public improvements and services, such as street improvements, landscaping and acquisition of open space, undergrounding of utility lines, and construction of drainage facilities in the area for which eligibility has been requested, and (2) provide concentrated and continuing enforcement of rehabilitation standards in such area.

(g) The local agency has agreed to make every effort to prevent unnecessary displacement in accomplishing rehabilitation and has an adequate program of relocation advisory assistance for persons unavoidably displaced due to rehabilitation.

(h) The supply of housing available to very low income households at affordable rents and the supply of housing available to other persons and families of low or moderate income at affordable rents will not be reduced within the area because those displaced will receive relocation payments and be able to obtain standard housing in the area. Alternatively, standard housing will be available at affordable rents in equally desirable neighborhoods, expanding the range of housing opportunities for minorities and lower income households

(i) The local agency has adopted a housing element in compliance with Section 65302 of the Government Code, and with housing element guidelines, which sets forth an effective plan for systematic enforcement of state and local building and housing standards throughout its jurisdiction.

(j) The application is consistent with local housing assistance plans

adopted pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

(k) The local agency has satisfied such other pertinent criteria as the agency may by regulation require.

(*l*) The local agency has investigated the current and planned levels of public transit service for the area.

SEC. 12. It is the intent of the Legislature, if this bill and Senate Bill No. 1862 are both chaptered and become effective January 1, 1979, and both bills amend Section 50003 of the Health and Safety Code, that the amendments to Section 50003 proposed by Senate Bill No. 1862 shall be given effect, in which case Section 1 of this act shall not become operative, whether this act is chaptered prior or subsequent to that act.

SEC. 13. It is the intent of the Legislature, if this bill and Senate Bill No. 1862 are both chaptered and become effective January 1, 1979, both bills amend Section 50407 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1862, that the amendments to Section 50407 proposed by both bills be given effect and incorporated in Section 50407 in the form set forth in Section 2.7 of this act. Therefore, Section 2.7 of this act shall become operative only if this bill and Senate Bill No. 1862 are both chaptered and become effective January 1, 1979, both amend Section 50407, and this bill is chaptered after Senate Bill No. 1862, in which case Section 2.5 of this act shall not become operative.

SEC. 14. It is the intent of the Legislature that if this bill and Senate Bill No. 1862 or Assembly Bill No. 2354, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 50952 of the Health and Safety Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1862 are both chaptered and become effective January 1, 1979, both bills amend Section 50952 of the Health and Safety Code, but Assembly Bill No. 2354 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1862, the amendments proposed by both bills shall be given effect and incorporated in Section 50952 in the form set forth in Section 7.1 of this act. Therefore, if this bill and Senate Bill No. 1862 are both chaptered and become effective January 1, 1979, both bills amend Section 50952, this bill is chaptered after Senate Bill No. 1862, and Assembly Bill No. 2354 is not chaptered or as chaptered does not amend that section, Section 7.1 of this act shall be operative and Sections 7, 7.3, and 7.5 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2354 are both chaptered and become effective January 1, 1979, both bills amend Section 50952 of the Health and Safety Code, but Senate Bill No. 1862 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2354, the amendments proposed by both bills shall be given effect and incorporated in Section 50952 in the form

set forth in Section 7.3 of this act. Therefore, if this bill and Assembly Bill No. 2354 are both chaptered and become effective January 1, 1979, both bills amend Section 50952, this bill is chaptered after Assembly Bill No. 2354, and Senate Bill No. 1862 is not chaptered or as chaptered does not amend that section, Section 7.3 shall be operative and Sections 7, 7.1, and 7.5 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1862 and Assembly Bill No. 2354 are all chaptered and become effective January 1, 1979, all three bills amend Section 50952 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1862 and Assembly Bill No. 2354, the amendments proposed by all three bills shall be given effect and incorporated in Section 50952 in the form set forth in Section 7.5 of this act. Therefore, if this bill and Senate Bill No. 1862 and Assembly Bill No. 2354 are all chaptered and become effective January 1, 1979, all three bills amend Section 50952 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1862 and Assembly Bill No. 2354, Section 7.5 of this act shall be operative and Sections 7, 7.1, and 7.3 of this act shall not become operative.

SEC. 15. It is the intent of the Legislature, if this bill and Senate Bill No. 1863 are both chaptered and become effective January 1, 1979, both bills amend Section 51057 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1863, that the amendments to Section 51057 proposed by both bills be given effect and incorporated in Section 51057 in the form set forth in Section 9.5 of this act. Therefore, Section 9.5 of this act shall become operative only if this bill and Senate Bill No. 1863 are both chaptered and become effective January 1, 1979, both amend Section 51057, and this bill is chaptered after Senate Bill No. 1863, in which case Section 9 of this act shall not become operative.

SEC. 16. It is the intent of the Legislature, if this bill and Senate Bill No. 1863 are both chaptered and become effective January 1, 1979, both bills amend Section 51301 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1863, that the amendments to Section 51301 proposed by both bills be given effect and incorporated in Section 51301 in the form set forth in Section 10.5 of this act. Therefore, Section 10.5 of this act shall become operative only if this bill and Senate Bill No. 1863 are both chaptered and become effective January 1, 1979, both amend Section 51301, and this bill is chaptered after Senate Bill No. 1863, in which case Section 10 of this act shall not become operative.

SEC. 17. It is the intent of the Legislature, if this bill and Senate Bill No. 1863 are both chaptered and become effective January 1, 1979, both bills amend Section 51302 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1863, that the amendments to Section 51302 proposed by both bills be given effect and incorporated in Section 51302 in the form set forth in Section 11.5 of this act. Therefore, Section 11.5 of this act shall become operative only if this bill and Senate Bill No. 1863 are both chaptered and

become effective January 1, 1979, both amend Section 51302, and this bill is chaptered after Senate Bill No. 1863, in which case Section 11 of this act shall not become operative.

CHAPTER 1352

An act to add Section 135 to the Harbors and Navigation Code, relating to oil and hazardous substances.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 135 is added to the Harbors and Navigation Code, to read:

135. (a) It is unlawful to cause or permit any petroleum, chemical, or other hazardous substance to be transferred between a vessel and a shore facility or another vessel by means of a pipeline or similar conduit unless the flow is continuously monitored by a properly installed, operated, and maintained mechanism that will warn of the imminent occurrence of an overflow of the substance being transferred so that the flow can be terminated in time to avert the overflow, and unless the vessel and the shore facility are each equipped with a properly installed, operated, and maintained mechanism that will warn whenever any person is no longer properly discharging his duties in connection with the transfer, is inattentive, or becomes disabled for any reason. Violation of this section is a misdemeanor However, it shall be a defense to any prosecution for a violation of this section if the mechanism was properly installed and was at all times properly operated and maintained by the person responsible for the mechanism.

(b) This section does not apply to any transfer of fuel to any self-propelled vessel of less than 65 feet in length at any facility equipped with dispensing nozzles of the automatic shut-off type that do not have catch-locks and meet all federal standards.

(c) This section does not apply to any on-shore receiving tankage if appropriate containment or diversionary structures, or both, or other equipment that is adequate to prevent the overflowed substance from reaching the waters of the state is provided.

(d) This section shall become operative with respect to a tank vessel that is subject to examination by the United States Coast Guard not later than the first occasion on or after January 1, 1979, that it is required to be drydocked or hauled out for such examination, as provided in Section 31.10-20 of Title 46 of the Code of Federal Regulations. This section shall become operative on July 1, 1979, with respect to any vessel that is not subject to any such examination; any tank barge, regardless of whether it is subject to such an examination;

and any shore facility not made exempt by subdivision (c).

(e) As used in this section, "vessel" means every description of watercraft or other contrivance used, or capable of being used, as a means of transportation through or on water, including, but not limited to, a barge.

(f) As used in this section, "hazardous substance" means any such substance defined in paragraph (2) of subsection (b) of Section 1321 of Title 33 of the United State Code.

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

CHAPTER 1353

An act to amend Sections 6503 and 6507 of, and to add Section 6503.5 to, the Public Resources Code, relating to public lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 6503 of the Public Resources Code is amended to read:

6503 Upon receipt of an application to lease lands under this chapter, the commission shall appraise the lands and fix the annual rent or other consideration therefor.

SEC. 2. Section 6503.5 is added to the Public Resources Code, to read·

6503 5. (a) Notwithstanding the provisions of Section 6503, no rent shall be charged for any private recreational pier constructed on state lands for the use of a littoral landowner. However, a littoral landowner shall pay to the commission, in accordance with its rules and regulations, the commission's expenses in issuing a lease or permit for the state lands.

(b) As used in this section, the following terms have the following meanings

(1) "Littoral landowner" means (A) any natural person or persons who own littoral land improved with, and used solely for, a single-family dwelling or (B) any association of, or any nonprofit corporation consisting of, natural persons who own parcels of land, each of which is zoned or used solely for a single-family dwelling, and

who are entitled to the use of a private recreational pier on littoral land that is owned by the association or nonprofit corporation and is not more than one mile from any such parcel owned by a member thereof.

(2) "Recreational pier" includes any fixed facility for the docking or mooring of boats that is constructed for the use of the littoral landowner.

SEC. 3. Section 6507 of the Public Resources Code is amended to read:

6507. Any error in the description of any lease may, with the consent of the holder thereof, be corrected or any description amended by the commission when in its judgment it is to the best interests of the state so to do.

SEC. 4. In deciding whether to issue a lease or permit pursuant to Section 6503.5 of the Public Resources Code, the State Lands Commission shall be guided by Section 6501.1 of the Public Resources Code. No provision of this act or Chapter 431 of the Statutes of 1977 shall be deemed to require the commission to issue a particular lease or permit.

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

In order to correct promptly an inequity with regard to entitlements to the rental exemption for recreational piers that serve public purposes, it is necessary that this act take effect immediately.

CHAPTER 1354

An act to add and repeal Chapter 7.5 (commencing with Section 50690) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Chapter 7.5 (commencing with Section 50690) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 7.5. HOUSING ADVISORY SERVICE

Article 1. Findings and Declarations

50690. The Legislature finds and declares that the attainment of the national and state goal of providing every American family with a decent home and a suitable living environment is complicated by

a lack of information and technical assistance regarding housing planning, design, rehabilitation, construction, and financing; alternative housing options for owners and renters; building codes and standards and housing codes; site acquisition and development; and building materials and methods and their costs and availability.

The Legislature further finds and declares that the attainment of the national and state housing goal can be achieved, in part, through the fullest practicable utilization of the resources and capabilities of private enterprise and of individual and group self-help techniques. A significant number of persons and families of low or moderate income are capable of building or rehabilitating their own homes, in whole or in part, with considerable savings to themselves and benefits to the public.

50691 The purposes of this chapter are the following:

(1) To encourage and foster the utilization of the resources and capabilities of private enterprise and of individual and group self-help techniques in the rehabilitation and replacement of deteriorated and dilapidated housing and in the construction of additional housing in both urban and rural areas.

(2) To stimulate housing rehabilitation and construction so as to increase the supply of decent, affordable housing.

(3) To demonstrate that improved housing conditions, ownership, and maintenance are within the financial capabilities of persons and families of low or moderate income through the reduced costs of owner-building, owner-rehabilitation and other self-help-oriented alternatives

Nothing in this chapter shall be construed as preventing participation of renters in such housing alternatives.

Article 2. Definitions

50692. As used in this chapter:

(a) "Owner-builder" means any person or family who acts as the general contractor for, or as the provider of part or all of the labor necessary to build, housing to be occupied as the principal residence of that person or family.

(b) "Owner-building" means the process engaged in by owner-builders in the construction of their own housing.

(c) "Self-help rehabilitator" means any person or family who acts as the general contractor for, or as the provider of part or all of the labor necessary to rehabilitate, renovate, or improve that person's or family's own residence

(d) "Self-help rehabilitation" means the process engaged in by self-help rehabilitators in the rehabilitation, renovation or improvement of their own residences.

Article 3. General Provisions

50693. There is hereby established, within the Division of Community Affairs of the department, a California Housing Advisory Service.

50694. The California Housing Advisory Service shall:

(1) Be a clearinghouse for owner-building and self-help rehabilitation information.

(2) Conduct research projects and training projects pertaining to owner-building and self-help rehabilitation.

(3) Provide information and technical assistance to and between public and private agencies, community groups, and present and prospective owner-rehabilitators and self-help rehabilitators.

(4) Prepare, publish, and disseminate educational information relating to and encouraging owner-building and self-help rehabilitation.

(5) Encourage and facilitate the effective use of available housing resources by existing and potential owner-builders and self-help rehabilitators and other persons seeking to improve their own housing.

(6) Encourage and assist the formation and operation of neighborhood organizations and community design centers to assist owner-builders and self-help rehabilitators.

50695. The California Housing Advisory Service shall provide to potential and actual owner-builders and self-help rehabilitators information and technical assistance regarding the following:

(1) The cost savings of owner-building and self-help rehabilitation.

(2) Construction materials and methods.

(3) The identity of local material sources and technical resources.

(4) Financing requirements and opportunities.

(5) Site acquisition.

(6) Insurance and legal requirements.

(7) Energy and water conservation.

(8) Building codes and standards and housing codes.

(9) Other available housing alternatives.

(10) Any other information or technical assistance determined by the department that would further the purposes of this chapter.

50696. (a) California Housing Advisory Service may provide the information and technical assistance required by Section 50695 in conjunction with federal and state energy and water conservation programs, and federal and state neighborhood preservation and urban homesteading programs, including local programs carried on in federally assisted community development neighborhoods, neighborhood preservation areas, redevelopment project areas, urban homesteading areas, and residential rehabilitation areas.

(b) The California Housing Advisory Service may contract, with the approval of the department, with local agencies, neighborhood nonprofit organizations, and community design centers, for local housing advisory service programs. Such programs may include

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training of experienced owner-builders and self-help rehabilitators to assist other owner-builders and self-help rehabilitators; home management training as provided in Chapter 5 (commencing with Section 50600) of this part; dissemination of educational information; and any other services or technical assistance deemed appropriate by the California Housing Advisory Service.

(c) The department shall establish at least one field office of the California Housing Advisory Service in a rural area.

(d) At least 50 percent of the amounts disbursed pursuant to subdivision (b) shall be for housing advisory service programs predominantly emphasizing self-help rehabilitation.

(e) The primary emphasis of the Housing Advisory Service and local housing advisory programs shall be on the expansion and improvement of the housing stock available to persons and families of low and moderate income.

50697. (a) The department shall encourage or support all housing advisory service activities in the state and shall do so in accordance with the policies, goals and objectives of the California Statewide Housing Plan.

(b) The department may seek commitments, on a matching or other basis, from local agencies for the financial support of local housing advisory service programs.

(c) The department may seek, obtain, and utilize public and private funds to carry out the purposes and general provisions of this chapter.

(d) The development may adopt procedures and regulations necessary to implement the provisions of this chapter.

50697.5. The director's annual report to the Governor and the Legislature shall include a summary of the accomplishments of the California Housing Advisory Service. The summary shall include the number of persons or groups who sought information and who sought technical assistance, the number who sought each type of information and technical assistance required by Section 50695, the type of outlet for the information or technical assistance (i.e. neighborhood organization, field office, community design center), and the number, type and effect of educational and training efforts.

50698. The director's last annual report to the Governor and the Legislature prior to January 1, 1982, shall include recommendations for improvement, continuation, or termination of the California Housing Advisory Service.

50699. This chapter shall remain in effect only until January 1, 1982, and on that date is repealed unless a later enacted statute, which is chaptered before January 1, 1982, extends or deletes such date

SEC. 2 There is hereby appropriated from the General Fund to the Department of Housing and Community Development the sum of four hundred fifty thousand dollars ($450,000) for expenditure according to the following schedule for the purposes of this chapter:

(a) To fund contracts for local housing advisory services pursuant to subdivision (b) of Section 50696 of the Health and Safety Code..... $375,000
(b) For operation of the California Housing Advisory Service $75,000

CHAPTER 1355

An act to amend Sections 4831, 4875, 4881, and 4905 of, to amend and renumber Section 4883 of, to add Sections 4809.4, 4876, and 4883 to, and to repeal Sections 4809.4 and 4882 of, the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 4809.4 is added to the Business and Professions Code, to read:

4809.4. Notwithstanding any other provisions of this code, the board shall have the authority to employ its own investigators as are needed for enforcement of the provisions of this chapter. The board shall adopt the minimum qualifications for its investigators.

This section shall remain in effect until January 1, 1982, and as of that date is repealed.

SEC. 2. Section 4831 of the Business and Professions Code is amended to read:

4831. Any person, who violates or aids or abets in violating any of the provisions of this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars ($500), nor more than two thousand dollars ($2,000), or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

SEC. 3. Section 4875 of the Business and Professions Code is amended to read:

4875. The board may revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in this state after notice and hearing for any of the causes provided in this article. In addition to its authority to suspend or revoke a license, the board shall have the authority to assess a fine not in excess of five thousand dollars ($5,000) against a licensee for any of the causes specified in Section 4883. Such fine may be assessed in lieu of or in addition to a suspension or revocation. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code,

and the board shall have all the powers granted therein. Notwithstanding the provisions of Section 4903, all fines collected pursuant to this section shall be deposited to the credit of the Board of Examiners in the Veterinary Medicine Contingent Fund.

SEC 4 Section 4876 is added to the Business and Professions Code, to read.

4876. In addition to its authority to suspend or revoke a license, or assess a fine of a person licensed under this chapter, the board shall have the authority to place a licensee on probation. The authority of the board to discipline by placing the licensee on probation shall include, but is not limited to, the following:

(a) Requiring the licensee to complete a course of study or service, or both, as prescribed by the board, and to demonstrate renewed competence to the satisfaction of the board.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires a licensee to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee

SEC. 5. Section 4881 of the Business and Professions Code is amended to read.

4881. The secretary in all cases of suspension, revocation or restriction of licenses or assessment of fines shall enter on the register the fact of suspension, revocation, as the case may be. The record of such suspension, revocation or restriction or fine so made by the county clerks shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of the board in the matter of the suspension or revocation or restriction or fine.

SEC. 6. Section 4882 of the Business and Professions Code is repealed.

SEC. 7. Section 4883 is added to the Business and Professions Code, to read:

4883. The board may deny, revoke, or suspend a license or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of such conviction shall be conclusive evidence

(b) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the

State of California to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising having for its purpose or intent deception or fraud.

(g) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state, regulating narcotics, dangerous drugs or controlled substances, and the record of the conviction is conclusive evidence A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(2) The use of or prescribing for or administering to himself or herself, any of the controlled substances specified in Schedule I of Section 11054, or Schedule II of Section 11055, or any narcotic drug specified in Schedule III of Section 11056, of the Health and Safety Code; or the use of any of the dangerous drugs specified in Section 4211 of this code, or of alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that such use impairs the ability of such person so licensed to conduct with safety the practice authorized by the license; or the conviction of more than one misdemeanor or any felony involving the use, consumption or self-administration of any of the substances referred to in this section or any combination thereof and the record of the conviction is conclusive evidence; a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section; the board may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment

(3) A violation of any federal statute, or rule or regulation or any of the statutes or rules or regulations of this state regulating narcotics, dangerous drugs, or controlled substances.

(h) Failure to keep one's premises and all equipment therein in a clean and sanitary condition

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts which are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining such license.

(*l*) The revocation by a sister state or territory of a license or certificate by virtue of which one is licensed to practice veterinary medicine in that state or territory.

(m) Conviction on a charge of cruelty to animals.

(n) Disciplinary action taken by any public agency for any act substantially related to the practice of veterinary medicine.

SEC. 8. Section 4883 of the Business and Professions Code is amended and renumbered to read:

4885. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of veterinary medicine is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or assess a fine as provided in Sections 4882, 4883, and 4884, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 9. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and the same shall be credited to the Board of Examiners in Veterinary Medicine Contingent Fund:

(a) The fee for filing an application for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed ninety dollars ($90) for the practical examination, and at not more than ninety dollars ($90) for the written examination.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for each biennial renewal period in such amount as it determines is reasonably

necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred twenty-five dollars ($125).

(d) The delinquency fee shall not exceed twenty-five dollars ($25)

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The fee for registration of veterinary premises is fifty dollars ($50), but the board may reduce the fee to such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purposes of this chapter.

SEC. 10 Section 4905 of the Business and Professions Code is amended to read:

4905 The following fees shall be collected by the board and the same shall be credited to the Board of Examiners in Veterinary Medicine Contingent Fund:

(a) The fee for filing an application for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed ninety dollars ($90) for the practical examination, and at not more than ninety dollars ($90) for the written examination

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be fixed by the board for each biennial renewal period in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred twenty-five dollars ($125).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed fifty dollars ($50) annually.

SEC 11 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that

section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 12. It is the intent of the Legislature, if this bill and Assembly Bill No. 2911 are both chaptered and become effective January 1, 1979, both bills amend Section 4905 of the Business and Professions Code, and this bill is chaptered after Assembly Bill No. 2911, that the amendments to Section 4905 proposed by both bills be given effect and incorporated in Section 4905 in the form set forth in Section 10 of this act. Therefore, Section 10 of this act shall become operative only if this bill and Assembly Bill No. 2911 are both chaptered and become effective January 1, 1979, both amend Section 4905, and this bill is chaptered after Assembly Bill No. 2911, in which case Section 9 of this act shall not become operative.

CHAPTER 1356

An act to repeal and add Section 8751 and to amend Section 8752 of the Government Code, relating to the Arts Council.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 8751 of the Government Code is repealed.

SEC. 2. Section 8751 is added to the Government Code, to read:

8751. (a) There is in the state government an Arts Council which shall be composed of 11 members. On or before January 10, 1979, the Speaker of the Assembly and the Senate Rules Committee shall each appoint one member to represent the general public. Prior to appointing the remaining nine members, the Governor shall request and consider recommendations from organizations representing the arts community and when making his appointments shall give consideration to the various arts disciplines and ethnic and geographic parts of the state. All appointments made to the council by the Governor shall be subject to confirmation by the Senate.

(b) Five of the eleven members shall hold office for four years, four shall hold office for three years, and two shall hold office for two years. Terms of office shall be determined by lot at the first meeting of the council after January 1, 1979.

(c) Nothing in this section shall prevent the reappointment or replacement of any individual presently serving on the existing Arts Council unless such person has already served for more than four consecutive years as a member of the California Arts Council or Arts

Commission.

(d) In January of each year, the members of the council shall select a chairperson Members of the council shall receive one hundred dollars ($100) per meeting and shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

SEC 3. Section 8752 of the Government Code is amended to read·

8752 The council shall meet at the call of the chairperson no more than eight times each calendar year. Unless there are extraordinary circumstances, all meetings are to be preceded by at least eight days public notice, and shall be held in various places throughout the state so as to encourage broad and diverse attendance

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CHAPTER 1357

An act to amend Section 10203.5 of the Insurance Code, relating to insurance

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 10203.5 of the Insurance Code is amended to read:

10203 5. (a) Life insurance conforming to all the following conditions is another form of group life insurance:

(1) Covering one of the following groups:

(A) All members are or become borrowers from one financial institution, including subsidiary or affiliated persons, under an agreement to repay the sum borrowed.

(B) All members are or become purchasers of merchandise or other property (exclusive of securities, investment certificates and bank deposits) under an agreement to pay the balance of the purchase price

(2) The group numbers not less than 100 new entrants yearly.

(3) The amount insured on any one borrower or purchaser does not exceed:

(A) The amount of the loan commitment in the case of an agricultural or horticultural loan commitment (as defined in section 10203 55) repayable in one sum or in irregular installments within a period not in excess of 18 months from the initial date of the loan commitment, or one hundred thousand dollars ($100,000), whichever is less, and

(B) In all other cases the balance of the indebtedness to the financial institution or vendor, or fifteen thousand dollars ($15,000),

whichever is less, on any one life.

(4) The repayment or payment of purchase price is to be made, under the agreement of loan or purchase; in substantially equal installments over a period not exceeding 32 years; or in payments or installments in accordance with the usual terms of the creditor in the case of a revolving loan or revolving charge account; or in one sum or irregular installments within a period not in excess of 18 months from the initial date of the commitment on an agricultural or horticultural loan.

(5) The policy is issued upon application of and made payable to the financial institution, vendor, or a creditor to whom such vendor may transfer title to the indebtedness, as beneficiary, and the premiums are paid by or through the financial institution, vendor, or such creditor.

(b) A policy of insurance conforming to the provisions of this section is not subject to the provisions of Section 10209 or 10213.

CHAPTER 1358

An act to add Section 1714.8 to the Civil Code, relating to malpractice.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 1714.8 is added to the Civil Code, to read:

1714.8. (a) No health care provider shall be liable for professional negligence or malpractice for any occurrence or result solely on the basis that the occurrence or result was caused by the natural course of a disease or condition, or was the natural or expected result of reasonable treatment rendered for the disease or condition. This section shall not be construed so as to limit liability for the failure to inform of the risks of treatment or failure to accept treatment, or for negligent diagnosis or treatment or the negligent failure to diagnose or treat.

(b) As used in this section, "health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act, or certified pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code, and any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

CHAPTER 1359

An act to add Section 12554 to the Government Code, and to amend Section 1238 of, and to add Section 4703 to, the Penal Code, relating to criminal procedure.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1 Section 12554 is added to the Government Code, to read:

12554. The Attorney General shall be the public prosecutor and shall prosecute all crimes committed by prisoners in physical custody in the state prisons in those counties in which the district attorney has, by notice or agreement, transferred the responsibility for the prosecution of such crimes to the Attorney General pursuant to Section 4703 of the Penal Code, notwithstanding the provisions of Sections 26500, 26501 and 26502.

SEC. 2. Section 1238 of the Penal Code is amended to read:

1238. (a) An appeal may be taken by the people from any of the following:

(1) An order setting aside the indictment, information, or complaint.

(2) A judgment for the defendant on a demurrer to the indictment, accusation, or information.

(3) An order granting a new trial.

(4) An order arresting judgment.

(5) An order made after judgment, affecting the substantial rights of the people

(6) An order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed or modifying the offense to a lesser offense.

(7) An order dismissing a case prior to trial made upon motion of the court pursuant to Section 1385 whenever such order is based upon an order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code

(8) An order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(b) If, pursuant to paragraph (8) of subdivision (a), the people prosecute an appeal to decision, or any review of such decision, it shall be binding upon them and they shall be prohibited from refiling the case which was appealed.

(c) When an appeal is taken pursuant to paragraph (7) of subdivision (a), the court may review the order granting defendant's motion to return or suppress property or evidence made at a special

hearing as provided in this code.

SEC. 3. Section 4703 is added to the Penal Code, to read:

4703. (a) The district attorney may transfer the responsibility for the prosecution of all crimes committed by prisoners in physical custody in the state prisons in his county to the Attorney General for all such crimes committed after July 1 of any year by delivery of written notice of his election to make such a transfer to the Attorney General prior to July 1 of the preceding year. As used in this section, crimes committed while in physical custody shall include escapes and attempted escapes but shall not include any crimes committed while a prisoner has been conditionally released from state prison on work furlough, parole, or upon any other conditional release where the inmate is in constructive but not actual physical custody.

(b) The district attorney may terminate the transfer of responsibility for the prosecution of all crimes committed by prisoners in physical custody in the state prisons in his county to the Attorney General for all crimes committed after July 1 of any year by delivery of written notice of his election to terminate such transfer to the Attorney General prior to January of the same year.

(c) The district attorney may prosecute a prisoner for a particular crime committed in physical custody in a state prison after a transfer of the responsibility for the prosecution of such crimes to the Attorney General pursuant to subdivision (a) with the consent of the Attorney General.

SEC. 4. Nothing in this act shall authorize the Attorney General to prosecute any crime except those committed by a prisoner in physical custody in a state prison as provided in this act. Nothing in this act shall prohibit the Attorney General from prosecuting any crime otherwise authorized by law.

CHAPTER 1360

An act to amend Section 29410 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 29410 of the Elections Code is amended to read:

29410. (a) Every person, other than a public officer in the performance of an official duty, is guilty of a misdemeanor who causes to be reproduced by any mechanical or electrical means including, but not limited to, printing, photocopying, mimeographing, or silkscreening, any circular, pamphlet, letter,

poster, bill, or other reproduced matter having reference to an election, to any candidate, or to any measure , or causes such reproduced matter to be posted or distributed, unless there appears on the circular, pamphlet, letter, poster, bill, or other reproduced matter in no less than six-point type not subjected to the halftone process the name and address of the business or residence of a person responsible for it.

If the responsible person is acting on behalf of a campaign committee which has filed a statement of organization with the Secretary of State under the provisions of the Political Reform Act of 1974, as amended, the name and address to appear on the reproduced matter may be the name and address of the campaign committee

(b) Any circular, pamphlet, letter, poster, bill, or other reproduced matter having reference to an election, candidate, or measure, which contains no more information than the following items which appear on the ballot: the date of the election, the nature of the election (e.g., primary, general, special, runoff), the name of the jurisdiction (e.g., Alhambra City, Los Angeles Community College District), and, in the case of a candidate, the name of the candidate, the title of the office, including district number, if any, and in the case of a partisan office, the candidate's party designation, or, in the case of a measure, the title of the measure and its number or letter designation, and the use of words such as "Oppose," "Reject," "Keep," "Send," "Yes on," "No on," "Vote for," "Elect," "Reelect," "Retain," "Return," "Recall," "Remove," and "Support" is exempted from the identification requirements of subdivision (a); provided, however, that a mass mailing as defined in Section 82041.5 of the Government Code shall comply with Section 84305 of the Government Code.

(c) Any circular, pamphlet, letter, poster, bill, or other reproduced matter referring only to candidates for federal office and subject to the requirements of Section 441d of Title 2 of the United States Code is exempt from the identification requirements of subdivision (a).

(d) A copy of this Elections Code section and Section 84305 of the Government Code shall be provided by the clerk to each candidate or his agent at the time of filing the declaration of candidacy and to the proponents of a local initiative or referendum at the time of filing the petitions. In the case of a statewide initiative or referendum, the Secretary of State shall provide a copy of this Elections Code section to the proponents of the measure within a reasonable time following receipt of the title and summary from the Attorney General as provided in Section 3503.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act, clarifying the law concerning the reproduction and distribution of campaign literature, may go into effect in time for the forthcoming elections, it is

necessary that this act take effect immediately.

CHAPTER 1361

An act to amend Sections 1411, 1412, 1418, 1419.7, 1419.9, 1421, 1421.1, 1421.2, 1422.1, 1422.2, and 1430 of, and to add Sections 1420.6, 1420 8, and 1425 5 to, the Labor Code, relating to fair employment practices.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 1411 of the Labor Code is amended to read:

1411. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for such reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advance, and substantially and adversely affects the interest of employees, employers, and the public in general.

This part shall be deemed an exercise of the police power of the state for the protection of the public welfare, prosperity, health, and peace of the people of the State of California.

SEC. 2 Section 1412 of the Labor Code is amended to read:

1412 The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age is hereby recognized as and declared to be a civil right.

SEC. 3 Section 1418 of the Labor Code is amended to read.

1418. The commission shall have the following functions, powers and duties

(a) To adopt, promulgate, amend, and rescind suitable rules, regulations, and standards (1) to interpret, implement, and apply Sections 1411, 1420, 1420.1, 1420.2, 1431, 1432, and 1432.5, as well as any other section of this part pertaining to unlawful employment practices, affirmative action, and public work contracts, (2) to regulate the conduct of hearings held pursuant to Section 1424, and (3) to carry out all other functions and duties of the commission pursuant to this part.

(b) To conduct hearings pursuant to Section 1424.

(c) To establish and maintain a principal office within the state.

(d) To meet and function at any place within the state.

(e) To appoint an executive secretary, and such attorneys and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and to empower them to study the problems of discrimination in all or specific fields of human relationships or in particular instances of discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) With respect to findings and orders made pursuant to Section 1424, to establish a system of published opinions which shall serve as precedent in interpreting and applying Sections 1420, 1420.1, and 1431, as well as of any other section of this part on which the commission is authorized to issue findings or orders.

(i) To issue publications and results of inquiries and research which in its judgment will tend to promote good will and minimize or eliminate unlawful discrimination. Such publications shall include an annual report to the Governor and the Legislature of its activities and recommendations.

SEC. 4. Section 1419.7 of the Labor Code is amended to read:

1419.7. The division may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, marital status, or ancestry which impair the rights of persons in such communities under the Constitution or laws of the United States or of this state. The services of the division may be made available in cases of such disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The division's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the division pursuant to this section shall be limited to endeavors at investigation, conference, conciliation, and

persuasion.

SEC. 5. Section 1419.9 of the Labor Code is amended to read:

1419.9. (a) The Legislature recognizes that the avoidance of discriminatory practices in the employment of disabled persons is most effectively achieved through the ongoing efforts of state agencies involved in the vocational rehabilitation and job placement of the disabled. The division may utilize the efforts and experience of the Department of Rehabilitation in the development of job opportunities for the disabled by requesting the Department of Rehabilitation to foster good will and to conciliate on employment policies with employers who, in the judgment of the division, have employment practices or policies that discriminate against disabled persons Nothing contained in this paragraph shall be construed to transfer any of the functions, powers, or duties from the division to the Department of Rehabilitation.

(b) The activities of the division in providing conciliation assistance shall be conducted in confidence and without publicity, and the division shall hold confidential any information acquired in the regular performance of its duties upon the understanding that it would be so held. No employee of the division shall engage in the performance of investigative or prosecuting functions of any department or agency in any litigation arising out of a dispute in which he acted on behalf of the division. Any employee of the division, who makes public in any manner whatever any information in violation of this subdivision, is guilty of a misdemeanor and, if a member of the state civil service, shall be subject to disciplinary action under the State Civil Service Act. When contacted by the division, employers, labor organizations, or employment agencies shall be informed whether a particular discussion, or portion thereof, constitutes either (1) endeavors at conference, conciliation and persuasion which may not be disclosed by the division or received in evidence in any formal hearing or court action; or (2) investigative processes, which are not so protected.

SEC. 6. Section 1420.6 is added to the Labor Code, to read:

1420 6. It shall not be an unlawful practice under this part for an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature for its employees or members who are responsible for minor children.

SEC 7. Section 1420 8 is added to the Labor Code, to read:

1420.8. It shall be an unlawful practice under this part for a person to deny or to aid, incite, or conspire in the denial of the rights created by Section 51 or 51.7 of the Civil Code.

SEC. 8. Section 1421 of the Labor Code is amended to read:

1421 The division is empowered to prevent practices made unlawful under this part Any person claiming to be aggrieved by an alleged unlawful practice may file with the division a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful practice complained of and which

shall set forth the particulars thereof and contain such other information as may be required by the division. The chief or his authorized representative may in like manner, on his own motion, make, sign and file such complaint. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this part may file with the division a verified complaint asking for assistance by conciliation or other remedial action.

No complaint may be filed after the expiration of one year from the date upon which the alleged unlawful practice or refusal to cooperate occurred; except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by an unlawful practice first obtained knowledge of the facts of the alleged unlawful practice after the expiration of one year from the date of their occurrence.

Complaints alleging a violation of subdivision (c) of Section 1420 shall be filed as provided in Section 3096.

SEC 9. Section 1421.1 of the Labor Code is amended to read:

1421 1. Where an unlawful practice alleged in a verified complaint adversely affects, in a similar manner, a group or class of persons of which the aggrieved person filing the complaint is a member, or where such an unlawful practice raises questions of law or fact which are common to such a group or class, the aggrieved person or the chief may file the complaint on behalf and as representative of such a group or class. Any complaint so filed may be investigated as a group or class complaint, and, if in the judgment of the chief circumstances warrant, shall be treated as such for purposes of conciliation and accusation. Where an accusation is issued as a group or class accusation, the case shall be treated as a group or class case for all other purposes of this part, including, but not limited to, hearing, determination, reconsideration, and judicial proceedings.

SEC. 10. Section 1421.2 of the Labor Code is amended to read:

1421.2. The division shall cause any verified complaint filed under the provisions of this part to be served, either personally or by certified mail with return receipt requested, upon the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice complained of. Service shall be made at the time of initial contact with such person, employer, labor organization, or employment agency or the agents thereof, or within 45 days, whichever first occurs. At the discretion of the chief, the complaint may not contain the name of the complaining party unless such complaint is filed by the chief or his authorized representative.

SEC. 11. Section 1422.1 of the Labor Code is amended to read:

1422.1. Any agreement entered into by conference, conciliation and persuasion shall be reduced to writing, signed by all parties, and approved by the chief or the authorized representative of the chief. Within one year of the effective date of every such agreement, the division shall conduct a compliance review to determine whether such agreement has been fully obeyed and implemented. Whenever

the division believes, on the basis of evidence presented to it, that any person is violating or about to violate any such agreement, the division may bring an action in the appropriate superior court of the State of California in the same manner as actions may be brought under Section 1429. In resolving allegedly unlawful practices through conciliation such resolutions may be in the nature of, but are not limited to, types of remedies that might be ordered after accusation and hearing.

SEC. 12. Section 1422.2 of the Labor Code is amended to read:

1422.2. (a) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation or persuasion, or in advance thereof if circumstances warrant, the chief in his or her discretion may cause to be issued in the name of the division a written accusation. The accusation shall contain the name of the person, employer, labor organization or employment agency accused, which shall be known as the respondent, shall set forth the nature of the charges, shall be served upon the respondent together with a copy of the verified complaint, as amended, and shall require the respondent to answer the charges at a hearing. An accusation shall be issued, if at all, within one year after the filing of a complaint.

(b) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall promptly notify, in writing, the person claiming to be aggrieved. Such notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization or employment agency named in the verified complaint within one year from the date of such notice. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to such practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. Such actions may not be filed as class actions or may not be maintained as class actions by the person or persons claiming to be aggrieved where such persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants In actions brought under this section, the court, in its discretion may award to the prevailing party reasonable attorney fees and costs except where such action is filed by a public agency or a public official, acting in an official capacity

SEC 13. Section 1425 5 is added to the Labor Code, to read:

1425.5. The case in support of the accusation shall be presented before the commission by the attorneys or agents of the division. Any commissioner who, in regard to a particular case, shall have

previously been assigned to engage in investigation or conciliation endeavors or shall otherwise have been or be personally or professionally connected with the parties or factual situation of the original complaint upon which the accusation is based, shall not participate in the hearing except as a witness and shall not give his or her opinion of the merits of the case, nor shall he or she participate in the deliberations of the commission in such case. In connection with complaints initiated by the chief, the personal or professional association of the commissioners with the chief shall not prohibit the commissioners from participating in the deliberations of such cases. In any hearing, the content of discussions or endeavors at conciliation shall not be received in evidence.

SEC. 14. Section 1430 of the Labor Code is amended to read:

1430. Any person who shall willfully resist, prevent, impede or interfere with any member of the division or the commission or any of its agents or employees in the performance of duties pursuant to this part, or who shall in any manner willfully violate an order of the commission, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding five hundred dollars ($500), or both.

CHAPTER 1362

An act to amend Section 12305.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 12305.5 of the Welfare and Institutions Code is amended to read:

12305.5. (a) Notwithstanding any other provision of this chapter, any person who:

(1) Was once determined to be disabled in accordance with Section 1614 of Part A of Title XVI of the Social Security Act (Section 1382c, Title 42, United States Code), and

(2) Became ineligible for benefits under this chapter because the person engaged in substantial gainful activity, and

(3) Continues to suffer from the physical or mental impairments which were the basis of the disability determination required under paragraph (1), and

(4) Requires in-home supportive care to carry out any or all of the following:

(A) Routine bodily functions, such as bowel or bladder care.

(B) Dressing

(C) Preparation and consumption of food.

(D) Moving into and out of bed.
(E) Routine bed bath.
(F) Ambulation
(G) Any other function of daily living as determined by the director,

shall be considered to be disabled, for the purposes of this article only, even though such person is engaged in substantial gainful activity Regardless of whether such person has excess income, such person shall be eligible to receive payment under this article to purchase in-home supportive services if his income is insufficient to provide for the cost of such care, and he is otherwise qualified under this article.

(b) For purposes of this section, "substantial gainful activity" means work activity considered to be substantial gainful activity under applicable federal regulations adopted pursuant to Section 1614 of Part A of Title XVI of the Social Security Act.

(c) The determination of continued impairments and the need for in-home supportive care shall be supported by medical reports when requested Such reports shall be provided at the expense of the department.

(d) This section shall not be construed as creating any entitlement to state supplementation pursuant to Section 12150.

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

CHAPTER 1363

An act to amend Section 701 of, and to add Sections 707.5, 707.6, and 707 7 to, the Elections Code, to amend Sections 1461, 1461.1, 1461.5, 1462, 1472, 1500.1, 1754, 1755, and 1851.1 of the Probate Code, and to amend Sections 5357, 5358 3, and 5364 of the Welfare and Institutions Code, relating to elections

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 701 of the Elections Code is amended to read:

701. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered.

(b) When the mental incompetency of the person registered is

legally established as provided in Sections 707.5, 707.6, and 707.7.

(c) Upon the production of a certified copy of a subsisting judgment of the conviction of the person registered of any infamous crime or of the embezzlement or misappropriation of any public money.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Section 706.

SEC. 2 Section 707.5 is added to the Elections Code, to read:

707.5 (a) A person shall be deemed mentally incompetent, and therefore disqualified from voting, if a guardian for the person or the person and estate is appointed pursuant to Chapter 4 (commencing with Section 1460) of Division 4 of the Probate Code, or, if a conservator for the person or the person and estate is appointed pursuant to Division 5 (commencing with Section 1701) of the Probate Code, or, if a conservator for the person or the person and estate is appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and, during the course of any such proceeding the court finds that the person is not capable of completing an affidavit of voter registration in accordance with Section 500.

(b) If any such proceeding is heard by a jury, the jury shall unanimously find that the person is not capable of completing an affidavit of voter registration before the person shall be disqualified from voting.

(c) Whenever an order establishing a guardianship or conservatorship is made, and in connection with such order it is found that the person is not capable of completing an affidavit of voter registration the court shall forward such order and determination to the county clerk of the person's county of residence

SEC 3 Section 707 6 is added to the Elections Code, to read:

707.6 (a) For guardianships established pursuant to Chapter 4 (commencing with Section 1460) of Divison 4 of the Probate Code and for conservatorships established pursuant to Division 5 (commencing with Section 1701) of the Probate Code, the court investigator shall, during the yearly or biennial review of the guardianship as required by Section 1500 1 of the Probate Code and of the conservatorship as required by Section 1851 1 of the Probate Code, review the person's capability of completing an affidavit of voter registration in accordance with Section 500.

(b) If the person had been disqualified from voting by virtue of being incapable of completing an affidavit of voter registration, the court investigator shall determine whether the person has become capable of completing the affidavit, and, the investigator shall so inform the court

If the investigator finds that the person is capable of completing the affidavit, the court shall hold a hearing to determine whether the

person is in fact capable of completing the affidavit. If the person is found to be capable of completing the affidavit, the person's right to register to vote shall be restored and the court shall so notify the county clerk.

(c) If the person had not been found to be incapable of completing an affidavit of voter registration, and, the court investigator determines that the person is no longer capable of completing the affidavit, the investigator shall so notify the court. The court shall hold a hearing to determine whether the person is capable of completing an affidavit of voter registration, and, if the court determines that the person is not so able, the court shall order the person to be disqualified from voting and the court will so notify the county clerk.

SEC. 4. Section 707.7 is added to the Elections Code, to read:

707.7. (a) If the person or the person and estate is under a conservatorship established pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 4 of the Welfare and Institutions Code, the person may contest his or her disqualification from voting pursuant to the procedure set forth in Section 5358.3 of the Welfare and Institutions Code.

(b) When the conservatorship described in subdivision (a) terminates after one year, the person's right to register to vote shall also be automatically restored and notification to the appropriate county clerk shall be made. If a petition is filed for the reappointment of the conservator, a new determination shall be made as to whether the person should be disqualified from voting.

(c) If the right to vote is restored pursuant to Section 5358.3 of the Welfare and Institutions Code or if the conservatorship is terminated in a proceeding held pursuant to Section 5364 of the Welfare and Institutions Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored.

SEC. 5. Section 1461 of the Probate Code is amended to read:

1461. Any relative or friend may file a verified petition alleging that a person is incompetent, and setting forth the names and residences, so far as they are known to the petitioner, of the relatives of the alleged incompetent person within the second degree residing within or without the state. The clerk shall set the petition for hearing by the court and issue a citation directed to the alleged incompetent person setting forth the time and place of hearing so fixed by him.

The citation shall include a specific delineation of the legal standards by which the need for a guardianship is adjudged as stated in Section 1460, and shall state that the alleged incompetent person may be adjudged incompetent and by reason thereof a guardian may be appointed for his person and estate or person or estate, that such adjudication may transfer his right to contract, manage and control his property, and to fix his residence to the appointed guardian, that the person may be disqualified from voting pursuant to Section 707.5

of the Elections Code, that the court or a court investigator will explain the nature, purpose and effect of the proceeding to the alleged incompetent person and answer questions concerning such explanation, that the alleged incompetent person shall have the right to appear at such hearing and oppose such petition, that he shall have the right to legal counsel of his own choosing, including the right to have legal counsel appointed for him by the court if he is unable to retain one, and that he has the right to a jury trial if he so desires.

The citation, and a copy of the petition, shall be served upon the alleged incompetent person in the same manner provided for in Section 415 10 or 415 30 of the Code of Civil Procedure or in such manner as may be authorized by the court, at least 10 days before the time of the hearing.

Notice of the nature of the proceedings and of the time and place of the hearing shall be mailed by the petitioner to each of the relatives of the alleged incompetent person named in the petition at least 15 days before the time of hearing unless the time is shortened by the court for good cause shown. The court may order that similar notice be given to other persons in such manner as the court may direct. Any relative or friend of the alleged incompetent person or the alleged incompetent person himself may appear and oppose the petition.

If the alleged incompetent person is within the state and is able to attend, he shall be produced at the hearing, and if he is not able to attend by reason of medical inability, such inability shall be evidenced by the affidavit or certificate of a duly licensed medical practitioner, unless such alleged incompetent person is a patient at a county or state hospital in this state in which case the affidavit or certificate shall be by the medical director or medical superintendent or acting medical director or medical superintendent of such county or state hospital. If the proposed ward is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of such religion, an affidavit as to his or her medical inability to attend by the accredited practitioner shall be acceptable.

If the alleged incompetent person is not within the state and if the court determines that his attendance at the hearing is necessary in the interest of justice, the court may order him to be produced at the hearing upon penalty of dismissing the petition if he is not produced. If such an order is made and it is contended that the alleged incompetent person is not able to attend by reason of medical inability such inability shall be evidenced by the affidavit or certificate of a duly licensed medical practitioner.

Emotional or psychological instability shall not be considered good cause for the absence of the alleged incompetent person within the meaning of this section, unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the alleged incompetent person. The

medical affidavit shall be evidence only of the alleged incompetent person's medical inability to attend the hearing and shall not be considered in determining the issue of incompetency.

SEC. 6. Section 1461.1 of the Probate Code is amended to read:

1461.1. Upon receipt of the affidavit or certificate attesting to the proposed ward's inability to attend the hearing, the court shall appoint a court investigator to personally interview the proposed ward and to inform him as to the contents of the citation, the nature, purpose and effect of the proceeding, and of his right to oppose the proceeding, attend the hearing, have the matter tried by jury and be represented by counsel. The investigator shall also determine whether it appears that the proposed ward is unable to attend the hearing, whether the proposed ward wishes to contest the establishment of the guardianship, whether the proposed ward objects to the proposed guardian or whether he or she prefers another person to act as guardian, whether the proposed ward wishes to be represented by counsel, and if so, whether the proposed ward has retained counsel, and if not, the name of an attorney the proposed ward wishes to retain. Additionally, and pursuant to Section 707.5 of the Elections Code, the investigator shall determine whether the proposed ward is capable of completing an affidavit of voter registration in accordance with Section 500 of the Elections Code.

The court investigator shall report his findings, including the proposed ward's express statement concerning representation by counsel, in writing, to the court at least five days before the date set for hearing.

As used in this chapter, a "court investigator" or "investigator" is a person trained in law who is an officer or special appointee of the court with no personal or other beneficial interest in the proceedings.

SEC. 7 Section 1461.5 of the Probate Code is amended to read:

1461.5. Prior to the appointment of a guardian for the person and estate or person or estate of an incompetent person, the court shall inform the alleged incompetent person as to the nature and purpose of the guardianship proceeding, that the appointment of a guardian for his person and estate or person or estate is a legal adjudication of his incompetence, the effect of such an adjudication on his basic rights, including that he may be disqualified from voting pursuant to Section 707.5 of the Elections Code, the identity of the person who has been nominated as his guardian, that he has a right to oppose such proceeding, to have the matter tried by jury, and to be represented by legal counsel if he chooses. After communicating such information to the person and prior to the appointment of his guardian, the court shall consult the person to determine his opinion concerning the appointment Any adult developmentally disabled person for whom guardianship or conservatorship is sought pursuant to this article shall be informed of his right to counsel by the court; and if he does not have an attorney for the proceedings the court

shall immediately appoint the public defender or other attorney to represent him The person shall pay the cost for such legal service if he is able.

If the alleged incompetent person is unable to attend the hearing and such inability has been medically certified pursuant to Section 1461, the provisions of this section shall not apply.

SEC. 8. Section 1462 of the Probate Code is amended to read:

1462 If, upon the hearing, it appears to the court that the person in question is incompetent, the court must appoint a guardian of his person and estate, or person or estate, and if it appears that the voter is not capable of completing an affidavit of voter registration in accordance with Section 500 of the Elections Code, shall disqualify the person from voting pursuant to Section 707.5 of the Elections Code. In awarding letters of guardianship, the court shall give preference to such person as may have been designated by will or deed, unless good cause to the contrary is shown.

Before letters of guardianship may issue, a copy of the order appointing the guardian shall be served by mail upon the ward. The order shall contain the names, addresses, and telephone numbers of the guardian, the ward's attorney, if any, and the court investigator, if any.

The selection of a guardian of the person and estate or person or estate shall be solely in the discretion of the court. Among persons equally qualified in the opinion of the court to be appointed as guardian, preference is to be given as follows:

(1) To the ward's nominee under Section 1463.

(2) To the spouse of a married ward or the nominee of such spouse, unless an action for dissolution of marriage is pending.

(3) To an adult child of the ward or the nominee of such child.

(4) To a parent of the ward or the nominee of such parent.

(5) To a brother or sister of the ward or the nominee of such brother or sister

(6) To any qualified person or corporation upon the appropriate petition to the court, or if there is no such person or corporation qualified and willing to act in such capacity, to the public guardian under Section 8006 of the Welfare and Institutions Code.

The preference for any nominee to appointment under subdivisions (3), (4), and (5) shall be subordinate to the preference for any other child, parent, brother or sister in such class.

SEC 9 Section 1472 of the Probate Code is amended to read:

1472 On the trial or hearing, the person so declared incompetent and the guardian of such person, or any relative of such person, and, in the discretion of the court, any other person, may contest the right to the relief demanded Witnesses may be required to appear and testify, as in civil cases, and may be called and examined by the court on its own motion. If it is found that the person in question is competent and capable of managing and taking care of himself and his property, his restoration to capacity must be adjudged and the guardianship of such person, if not a minor, must cease. Upon

termination of the guardianship, if the person has been disqualified from voting pursuant to Sections 707.5 and 707.6 of the Elections Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored.

SEC. 10. Section 1500.1 of the Probate Code is amended to read:

1500.1. Each guardianship initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the guardian and biennially thereafter. The court investigator shall visit the ward and personally inform the ward that he is under a guardianship and the name of his guardian. The investigator shall also determine whether the ward wishes to petition the court for restoration to capacity, whether the ward is still incompetent, whether the present guardian is acting in the best interests of the ward, and whether the ward is capable of completing an affidavit of voter registration as required by Section 707.6 of the Elections Code.

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the ward wishes to petition the court for restoration to capacity, the restoration of the right to vote, or for removal of the existing guardian, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for restoration to capacity, the restoration of the right to vote, or removal of the existing guardian is in the best interests of the ward, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If the court investigator is unable to locate the ward, the court shall serve notice upon the guardian to produce the ward within 15 days of the receipt of such notice or show cause why the guardianship should not be terminated. If the ward is not produced within the time prescribed and if no good cause is shown for not producing the ward, the court shall terminate the guardianship and order the guardian to file an accounting, if the guardianship is of the estate.

Upon termination of the guardianship, if the person has been disqualified from voting pursuant to Sections 707.5 and 707.6 of the Elections Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored

SEC. 10.5. Section 1500.1 of the Probate Code is amended to read:

1500.1. Each guardianship of an adult initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the guardian and biennially thereafter. The court investigator shall visit the ward and personally inform the ward that he is under a guardianship and the name of his guardian The investigator shall also determine whether the ward wishes to petition

the court for restoration to capacity, whether the ward is still incompetent, whether the present guardian is acting in the best interests of the ward and whether the ward is capable of completing an affidavit of voter registration as required by Section 707.6 of the Elections Code

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the ward wishes to petition the court for restoration to capacity, the restoration of the right to vote, or for removal of the existing guardian, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for restoration to capacity, the restoration of the right to vote, or removal of the existing guardian is in the best interests of the ward, the court shall notify the attorney of record for the ward, if any, or appoint the public defender or other attorney to file the petition and represent the ward at the hearing or trial

If the court investigator is unable to locate the ward, the court shall serve notice upon the guardian to produce the ward within 15 days of the receipt of such notice or show cause why the guardianship should not be terminated. If the ward is not produced within the time prescribed and if no good cause is shown for not producing the ward, the court shall terminate the guardianship and order the guardian to file an accounting, if the guardianship is of the estate.

Upon termination of the guardianship, if the person has been disqualified from voting pursuant to Sections 707.5 and 707.6 of the Elections Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored

SEC. 11. Section 1754 of the Probate Code is amended to read:

1754. Any person or any relative or friend of any person, other than a creditor of the proposed conservatee, may file a verified petition alleging that the appointment of a conservator is required. The petition shall set forth, so far as they are known to the petitioner, the names and residences of the spouse, if any, and of the relatives of the proposed conservatee within the second degree. Upon the filing of the petition, the clerk shall set the petition for hearing by the court. Notice of the nature of the proceedings and of the time and place of the hearing on the petition shall be mailed by the petitioner to the spouse, if any, and to each of such relatives, and if the proposed conservatee is an "absentee," as defined in Section 1751.5, to the secretary concerned or to the head of the United States department or agency concerned, as the case may be, at least 15 days before such hearing date. If the proposed conservatee is an "absentee," as defined in Section 1751.5, such notice shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general

circulation in the county in which the proceedings will be held.

If the petition is filed by a person other than the proposed conservatee, the clerk shall issue a citation directed to the proposed conservatee setting forth the time and place of the hearing. The citation shall include a specific delineation of the legal standards by which the need for a conservatorship is adjudged as stated in Section 1751, and shall state that the proposed conservatee may be adjudged unable to provide for his personal needs or manage his financial resources, and by reason thereof, a conservator may be appointed for his person and property or person or property, that such adjudication may transfer the proposed conservatee's right to contract, manage and control his property, and to fix his residence to the appointed conservator, that the person may be disqualified from voting pursuant to Section 707.5 of the Elections Code, that the court or a court investigator will explain the nature, purpose and effect of the proceeding to the proposed conservatee and answer questions concerning such explanation, that the proposed conservatee shall have the right to appear at such hearing and oppose such petition, that he shall have the right to legal counsel of his own choosing, including the right to have legal counsel appointed for him by the court if he is unable to retain one, and that he has the right to a jury trial if he so desires.

The citation, and a copy of the petition, shall be served upon the proposed conservatee in the same manner provided for in Section 415 10 or 415 30 of the Code of Civil Procedure or in such manner as may be authorized by the court, at least 10 days before the time of the hearing No such citation shall, however, be required if the proposed conservatee is an "absentee," as defined in Section 1751.5.

The proposed conservatee, if he is the petitioner, or if he is in the state at date of service and, if able to attend, shall be produced at the hearing, and, if not able to attend by reason of medical inability, such inability shall be established by the affidavit or certificate of a duly licensed medical practitioner. If the proposed conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of such religion, an affidavit as to his or her medical inability to attend by an accredited practitioner shall be acceptable. Emotional or psychological instability shall not be considered good cause for the absence of the proposed conservatee within the meaning of this section, unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the proposed conservatee. The medical affidavit shall be evidence only of the proposed conservatee's medical inability to attend the hearing and shall not be considered in determining the issue of need for appointment of a conservator. If the proposed conservatee is an "absentee," as defined in Section 1751.5 his inability to attend the hearing shall be established by a certificate complying with Section 1283 of the Evidence Code, showing the determination of the Secretary of the Military

Department or the head of the department, or agency concerned or his delegate, as the case may be, that the "absentee" is in missing status

Upon the receipt of the affidavit or certificate attesting to the proposed conservatee's inability to attend the hearing, the court shall appoint a court investigator to personally interview the proposed conservatee and to inform him as to the contents of the citation, the nature, purpose and effect of the proceeding, and of his right to oppose the proceeding, attend the hearing, have the matter tried by jury and be represented by counsel. The investigator shall also determine whether it appears that the proposed conservatee is unable to attend the hearing, whether the proposed conservatee wishes to contest the establishment of the conservatorship, whether the proposed conservatee objects to the proposed conservator or whether he or she prefers another person to act as conservator, whether the proposed conservatee wishes to be represented by counsel, and if so, whether the proposed conservatee has retained counsel, and if not, the name of an attorney the proposed conservatee wishes to retain.

The court investigator shall report his findings, including the proposed conservatee's express statement concerning representation by counsel, in writing, to the court at least five days before the date set for hearing.

As used in this chapter, a "court investigator" or "investigator" is a person trained in law who is an officer or special appointee of the court with no personal or other beneficial interest in proceedings.

Whenever a notice to any officer or agency of this state or of the United States would be required upon a petition for the appointment of a guardian of an alleged incompetent person a like notice shall be given of a petition under this chapter. Any officer or agency of this state or of the United States, or the authorized delegate thereof, or any relative or friend of the proposed conservatee, or the proposed conservatee himself, may appear and oppose the petition.

SEC. 12. Section 1755 of the Probate Code is amended to read:

1755 Every conservatorship shall continue until the authority of the conservator is terminated by the death of the conservator or by order of court, or, subject to the duty of the conservator to see to the custody and conservation of the estate pending the delivery thereof to the personal representative of the conservatee's estate, by the death of the conservatee. Any conservator, the conservatee, or any relative or friend of the conservatee may apply by verified petition to the superior court of the county in which the proceedings are pending to have the conservatorship terminated. The petition shall state the facts alleged to establish that the conservatorship is no longer required. The petition shall be set for hearing and notice thereof given to the persons and in the same manner as is provided in this chapter for a petition for the appointment of a conservator. The conservator in such case, if he is not the petitioner or has not joined in the petition, shall be served with a notice of the time and

place of the hearing accompanied by a copy of the petition at least five (5) days prior to the hearing. Such service shall be made in the manner provided for in Section 415 10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court. If the conservator cannot, with reasonable diligence, be so served with notice, the court may dispense with such notice. The conservator or any relative or friend of the conservatee may appear and oppose the petition. The court shall hear and determine the matter according to the laws and procedure relating to the trial of civil action, including trial by jury if demanded. If it is determined that the conservatorship is no longer required, the conservatorship shall cease Upon termination of the conservatorship, if the person has been disqualified from voting pursuant to Sections 707.5 and 707.6 of the Elections Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored If the petition alleges and if it is determined that the conservatee is able to properly care for himself and for his property the court shall make such finding and enter judgment accordingly. The conservator may at the hearing, or thereafter on further notice and hearing, be discharged and his bond exonerated upon the settlement and approval of his final account by the court.

SEC. 13. Section 1851 1 of the Probate Code is amended to read:

1851 1. Each conservatorship initiated pursuant to this chapter shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter. The court investigator shall visit the conservatee and personally inform the conservatee that he is under a conservatorship and the name of his conservator. The investigator shall also determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the person has the capacity to complete an affidavit of voter registration pursuant to Sections 707.5 and 707.6 of the Elections Code, and whether the present conservator is acting in the best interests of the ward.

The findings of the court investigator, including the facts upon which such findings are based, shall be certified in writing to the court within 15 days of the date of review.

If the conservatee wishes to petition the court for termination of the proceeding, for removal of the existing conservator, or for the restoration of the right to vote, the court shall notify the attorney of record for the conservatee, if any, or appoint the public defender or other attorney to file the petition and represent the conservatee at the hearing or trial.

If, based upon information contained in the court investigator's report, the court determines that a hearing for termination of the proceeding or removal of the existing conservator is in the best interests of the conservatee, the court shall notify the attorney of record for the conservatee, if any, or appoint the public defender or other attorney to file the petition and represent the conservatee at

the hearing or trial.

If the court investigator is unable to locate the conservatee, the court shall serve notice upon the conservator to produce the conservatee within 15 days of the receipt of such notice or show cause why the conservatorship should not be terminated. If the conservatee is not produced within the time prescribed and if no good cause is shown for not producing the conservatee, the court shall terminate the conservatorship and order the conservator to file an accounting, if the conservatorship is of the estate.

Upon termination of the conservatorship, if the person has been disqualified from voting pursuant to Sections 707.5 and 707.6 of the Elections Code, the court shall notify the county clerk of the person's county of residence that the person's right to register to vote is restored.

SEC. 14. Section 5357 of the Welfare and Institutions Code is amended to read:

5357. All conservators shall have the general powers specified in Section 1852 of the Probate Code and such additional powers specified in Section 1853 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 707.5 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. The report shall include an evaluation of such condition and the current treatment for such condition, if any.

SEC. 15. Section 5358.3 of the Welfare and Institutions Code is amended to read:

5358.3. At any time, a conservatee or any person on his behalf with the consent of the conservatee or his counsel, may petition the court for a hearing to contest the rights denied under Section 5357 or the powers granted to the conservator under Section 5358. However, after the filing of the first petition for hearing pursuant to

this section, no further petition for rehearing shall be submitted for a period of six months.

A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to his status as a conservatee pursuant to Section 5364. A hearing pursuant to this section shall not include trial by jury. If a person's right to vote is restored, the court shall so notify the county clerk pursuant to Section 707.7(c) of the Elections Code.

SEC 16. Section 5364 of the Welfare and Institutions Code is amended to read·

5364. At any time, the conservatee may petition the superior court for a rehearing as to his status as a conservatee. However, after the filing of the first petition for rehearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months If the conservatorship is terminated pursuant to this section, the court shall, in accordance with Section 707.7(c) of the Elections Code, notify the county clerk that the person's right to register to vote is restored.

SEC. 17. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

SEC. 18. It is the intent of the Legislature, if this bill and Assembly Bill No. 3122 are both chaptered and become effective January 1, 1979, both bills amend Section 1500.1 of the Probate Code, and this bill is chaptered after Assembly Bill No. 3122, that the amendments to Section 1500.1 proposed by both bills be given effect and incorporated in Section 1500.1 in the form set forth in Section 10.5 of this act.

Therefore, Section 10.5 of this act shall become operative only if this bill and Assembly Bill No 3122 are both chaptered and become effective January 1, 1979, both amend Section 1500.1, and this bill is chaptered after Assembly Bill No. 3122, in which case Section 10 of this act shall not become operative.

CHAPTER 1364

An act relating to state highways, and making an appropriation therefor

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1. (a) There is hereby appropriated sixty-six million dollars ($66,000,000) from the State Highway Account in the State Transportation Fund to the Department of Transportation for capital outlay for new facilities in the Highway Transportation Program.

(b) The California Transportation Commission shall allocate the funds to projects in State Transportation District No. 7, and the department shall expedite the expenditures of such funds following such allocation, to meet the statutory minimum expenditure requirements for District 7 as soon as possible, giving priority to those projects to close gaps in the state highway system and to relieve traffic congestion.

(c) The commission shall submit a report to the Legislature, on or before April 1, 1979, on projects to which allocations of such funds have been made and the progress of the department in the expenditures of the allocations.

CHAPTER 1365

An act to amend Section 7265.3 of the Government Code, and to amend Sections 37912 and 37922.2 of the Health and Safety Code, relating to relocation assistance.

[Approved by Governor September 29, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 7265.3 of the Government Code is amended to read:

7265.3. (a) A public entity may make payments in the amounts prescribed in this chapter, and may provide advisory assistance under this chapter, to a person who moves from a dwelling as a result of enforcement of building codes by the public entity or systematic enforcement pursuant to Section 37924.5 of the Health and Safety Code, or moves or discontinues a business as a result of a rehabilitation or demolition program or enforcement of building codes by the public entity.

(b) A public entity shall make payments in the amounts prescribed by this chapter, and shall provide advisory assistance under this chapter, to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, whose rent, within one year after the rehabilitation of their dwelling is completed, is increased by an amount exceeding 25 percent of their income, or who move from their gross dwelling, as the result of a rehabilitation program in which the rehabilitation work is wholly

or partially financed or assisted with public funds provided by or through the public entity.

(c) A public entity shall provide temporary housing for up to 90 days to persons displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity.

(d) A person displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity shall, as a condition of the financing or assistance, be given the option of relocating, after rehabilitation, in the dwelling from which the person was displaced.

(e) A public entity may limit the amounts of payments under this section, otherwise calculated pursuant to subdivision (b) of Section 7264, to the lesser of: (i) the difference between the increased rent and 25 percent of gross income; or (ii) the difference between the increased rent and the rent immediately before the rehabilitation, code enforcement, or demolition which was greater than 25 percent of gross income.

(f) The payments and advisory assistance as required in this section shall be mandatory only if federal or state funds are available. However, nothing shall preclude the public entity from using local funds

SEC 2 Section 7265.3 of the Government Code is amended to read:

7265.3. (a) A public entity may make payments in the amounts prescribed in this chapter, and may provide advisory assistance under this chapter, to a person who moves from a dwelling, or who moves or discontinues his business, as a result of impending rehabilitation or demolition of a residential or commercial structure, or enforcement of building, housing, or health codes by a public entity, or systematic enforcement pursuant to Section 37924.5 of the Health and Safety Code, or because of increased rents to result from such rehabilitation or code enforcement.

(b) A public entity shall make payments in the amounts prescribed by this chapter, and shall provide advisory assistance under this chapter, to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, whose rent, within one year after the rehabilitation of their dwelling is completed, is increased to an amount exceeding 25 percent of their gross income, or who move from a dwelling, as the result of a rehabilitation program in which the rehabilitation work is wholly or partially financed or assisted with public funds provided by or through the public entity.

(c) A public entity may make payments in the amounts prescribed by subdivision (b) of Section 7264 to persons who remain in a dwelling during rehabilitation but are not entitled to payments pursuant to subdivision (b) of this section.

(d) A public entity may limit the amount of payments under this section, otherwise calculated pursuant to subdivision (b) of Section

7264, to the lesser of (i) the difference between the increased rent and 25 percent of gross income; or (ii) the difference between the increased rent and the rent immediately before the rehabilitation, code enforcement, or demolition which was greater than 25 percent of gross income.

(e) Payments required or authorized by subdivision (a), (b), or (c) of this section and made pursuant to subdivision (b) of Section 7264 may, at the option of the public entity, be computed and reviewed annually based on actual rental increases, and may be paid monthly or annually. A public entity may also give priority to a person who moves from a dwelling, or who remains in a dwelling during rehabilitation, in utilization of local, state, or federal rental assistance programs, either to enable the person to pay increased rents while remaining in the dwelling, or to move to other suitable housing.

(f) A public entity assisting in the financing of rehabilitation may provide some or all of the payments authorized or required by this section as part of the loan for rehabilitation costs, provided that the public entity makes payments directly to the person who moves, or who remains in the dwelling during rehabilitation.

(g) A public entity shall provide temporary housing for up to 90 days to persons displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity.

(h) A person displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity shall, as a condition of the financing or assistance, be given the option of relocating, after rehabilitation, in the dwelling from which the person was displaced.

(i) The payments and assistance required in this section shall be mandatory only if federal or state funds are available. However, nothing in this section shall preclude the public entity from using local funds to provide the authorized or required payments or advisory assistance whether or not federal or state funds are available.

SEC. 3. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation

program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the hearing by the legislative body considering selection of the area for designation.

(2) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, a proposed residential rehabilitation area, in developing a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program

(3) Dissemination, at least seven days prior to the original hearing, by mailing to property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of such area by a manner determined appropriate by the local agency, of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value for the purpose of residential rehabilitation and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation or the purchase of structures rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200) of this division.

(f) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(g) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for

which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(h) "Residential rehabilitation" means the construction, reconstruction renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, relocation payments, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(1) Defective design and character of physical construction.

(2) Faulty interior arrangement and exterior spacing.

(3) Inadequate provision for ventilation, lighting, and sanitation.

(4) Obsolescence, deterioration, and dilapidation.

(5) Tenants displaced because of temporary or permanent displacement for rehabilitation work assisted under this part, or rent increases resulting from rehabilitation pursuant to this part.

(i) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(j) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(*l*) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 4. Section 37912 of the Health and Safety Code, as amended by Section 2 of Senate Bill No. 1935, is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the hearing by the legislative body considering selection of the area for designation.

(2) Consultation with an elected or appointed citizen advisory board of a proposed residential rehabilitation area. The members of the board shall include, to the greatest extent feasible, representatives of resident owners, nonresident owners, and resident tenants of both single-family and multiple-family residential structures who are not apartment managers, resident agents, or employees of property owners. The duties of the board are to develop a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program.

(3) Dissemination, at least seven days prior to the original hearing, by mailing to property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of such area by a manner determined appropriate by the local agency, of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value for the purpose of residential rehabilitation and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation or the purchase of structures rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section

33000) of this division.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200) of this division.

(f) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(g) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(h) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, relocation payments, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(1) Defective design and character of physical construction.

(2) Faulty interior arrangement and exterior spacing.

(3) Inadequate provision for ventilation, lighting, and sanitation.

(4) Obsolescence, deterioration, and dilapidation.

(5) Tenants displaced because of temporary or permanent displacement for rehabilitation work assisted under this part, or rent increases resulting from rehabilitation pursuant to this part.

(i) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential

structures.

(j) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(*l*) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 5. Section 37922.2 of the Health and Safety Code is amended to read:

37922.2. If anticipated rent increases or other increases in housing costs will result in dislocation of residential rehabilitation area residents or will result in residents paying a disproportionately large percentage of their incomes for housing, the local agency shall take every possible action to prevent displacement of all residents as a result of the operation of the residential rehabilitation program in residential rehabilitation areas. Such actions shall include relocation payments to persons or families of low or moderate income who are tenants displaced because of the temporary or permanent displacement for rehabilitation work assisted under this part, or rent increases resulting from rehabilitation pursuant to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C., Sec. 4601) or Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Such actions shall also include, but need not be limited to, utilization of all federal, state, or local funding programs which are available for rent subsidies. In allocating funds which may become available through federal revenue sharing and through the federal Housing and Community Development Act of 1974 (P.L. 93-383; 88 Stat. 633), the local agency shall give consideration to measures which will assist in preventing displacement of such residents, the consideration of such measures to be evidenced in writing.

For purposes of this section, displacement includes relocation occurring because of the inability of a person or family of low or moderate income, as defined in Section 50093, to pay increased rentals resulting from rehabilitation, or involuntary temporary or permanent displacement of such a person or family.

The relocation payments required under this section shall be made only if federal or state funds are available. However, nothing shall

preclude the public entity from using local funds or funds from the sale of bonds

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 2064 are both chaptered and become effective January 1, 1979, both bills amend Section 7265.3 of the Government Code, and this bill is chaptered after Senate Bill No. 2064, that the amendments to Section 7265.3 proposed by both bills be given effect and incorporated in Section 7265.3 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 2064 are both chaptered and become effective January 1, 1979, both amend Section 7265.3, and this bill is chaptered after Senate Bill No. 2064, in which case Section 1 of this act shall not become operative.

SEC 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1935 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 37912 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1935, that Section 37912 of the Health and Safety Code, as amended by Section 2 of Senate Bill No. 1935 be further amended on the operative date of this act in the form set forth in Section 4 of this act to incorporate the changes to Section 37912 proposed by this bill. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 1935 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 37912, and this bill is chaptered after Senate Bill No 1935, in which case Section 4 of this act shall become operative on the operative date of this act and Section 3 of this act shall not become operative.

SEC. 8 There are no state-mandated local costs within the meaning of Section 2231 of the Revenue and Taxation Code imposed on local governmental entities by this act.

CHAPTER 1366

An act to add Chapter 12 (commencing with Section 25980) to Division 15 of the Public Resources Code, relating to solar energy.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Chapter 12 (commencing with Section 25980) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 12. SOLAR SHADE CONTROL

25980 This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible

means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25981. As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system which makes use of solar energy for any or all of the following purposes: (1) water heating, (2) space heating or cooling, and (3) power generation.

25982. After January 1, 1979, no person owning, or in control of a property shall allow a tree or shrub to be placed, or, if placed, to grow on such property, subsequent to the installation of a solar collector on the property of another so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface on the property of another at any one time between the hours of 10 a.m. and 2 p.m., local standard time; provided, that this section shall not apply to specific trees and shrubs which at the time of installation of a solar collector or during the remainder of that annual solar cycle cast a shadow upon that solar collector. For the purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and no less than 10 feet above the ground. A collector may be less than 10 feet in height, only if in addition to the five feet setback, the collector is set back three times the amount lowered.

25983. Every person who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 upon property owned by such person and every person leasing the property of another who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 after reasonable notice in writing from a district attorney or city attorney or prosecuting attorney, to remove or alter the tree or shrub so that there is no longer a violation of Section 25982, has been served upon such person, is guilty of a public nuisance as defined in Sections 370 and 371 of the Penal Code and in Section 3480 of the Civil Code. For the purposes of this chapter, a violation is hereby deemed an infraction. The complainant shall establish to the satisfaction of the prosecutor that the violation has occurred prior to the prosecutor's duty to issue the abatement notice. For the purpose of this section, "reasonable notice" means 30 days from receipt of such notice. Upon expiration of the 30-day period, the complainant shall file an affidavit with the prosecutor alleging that the nuisance has not been abated if the complainant wishes to proceed with the action. The existence of such violation for each and every day after the service of such

notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state infractions, to prosecute all persons guilty of violating this section by continuous prosecutions until the violation is corrected Each and every violation of this section shall be punishable by a fine not to exceed five hundred dollars ($500).

25984 Nothing in this chapter shall apply to trees planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops. Nothing in this chapter shall apply to the replacement of a tree or shrub which had been growing prior to the installation of a solar collector and which, subsequent to the installation of such solar collector, dies.

25985 Any city, or for unincorporated areas, any county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of such an ordinance shall not be subject to the provisions of the California Environmental Quality Act (commencing with Section 21000)

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

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

CHAPTER 1367

An act to add Section 25603 5 to the Public Resources Code, relating to energy, and making an appropriation therefor.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

The people of the State of California do enact as follows

SECTION 1. The Legislature hereby finds and declares the following:

(a) The use of passive solar design features in housing can result in lower energy costs to consumers, particularly moderate income consumers, and can help to decrease the state's dependence on limited supplies of fossil fuels.

(b) Passive solar and other energy conserving features incorporated in the design of new residential buildings can significantly decrease the energy requirements of those buildings in a cost-effective manner while maintaining conventional aesthetic standards.

(c) It is the policy of the state to encourage architects, building designers, and members of the building profession, as well as purchasers of new homes and the rental population, to make greater use of passive solar and energy conservation features in new residential and multifamily construction.

(d) The State Energy Resources Conservation and Development Reserve Account in the General Fund is an appropriate source of funding for a statewide passive solar design competition. The environmental objective of the competition is to promote residential applications of solar energy, a renewable, nonpolluting, environmentally benign source of energy whose widespread use can help decrease dependence on limited fossil fuel resources.

SEC. 2. Section 25603.5 is added to the Public Resources Code, to read:

25603.5. (a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features.

The purpose of the competition, to be known as the "State Solar Medallion Passive Design Competition", is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate income families in the state. The competition shall be carried out with the assistance and cooperation of the office of the State Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars ($35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars ($55,000).

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars ($55,000) and the market price, inclusive of land, construction, permits, fees,

overhead and profit shall not exceed eighty-five thousand dollars ($85,000).

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within one year of announcement of awards.

(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the commission to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.

Cash awards to authors of the Solar Medallion and first place designs shall not be made until the agreed upon construction commences

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

(1) One representative of the office of the State Architect.

(2) One representative of the commission.

(3) One certificated architect

(4) One representative of the state's lending institutions.

(5) One developer, builder or contractor.

The nonagency members shall be appointed by the State

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Architect.

In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state. The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.

The cost index shall be prepared by the office of the State Architect and shall be published in the competition program.

The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall submit to the judging panel a rigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selection shall be made by the judging panel.

Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:

(1) Use of passive solar and other energy conserving design features.

(2) Amount of energy savings achieved by the design.

(3) Adaptability of the design to widespread use.

(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.

In administering the competition, the commission shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(2) Distribution of competition information and ongoing publicity.

(3) Development of rules and procedures for competitors and judges.

(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.

(5) Instrumentation of winning dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units and ongoing data collection shall be provided by the commission pursuant to Section 25607.

For purposes of administering the competition, the commission shall contract with the office of the State Architect for materials and services that cannot be performed by its staff.

(g) Cash awards to authors of the winning designs shall be made

on the following basis:

Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars ($5,000).

(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars ($2,000).

SEC. 3. The sum of three hundred fifteen thousand dollars ($315,000) is hereby appropriated from the State Energy Resources Conservation and Development Reserve Account in the General Fund to the State Energy Resources Conservation Development Commission in order to conduct the State Solar Medallion Passive Design Competition under Section 25603.5 of the Public Resources Code, to be allocated on the following basis:

(1) One hundred thirty-seven thousand dollars ($137,000) for administration of the competition and duties described in Section 25603.5 of the Public Resources Code, except for the purposes of paragraph (5) of subdivision (f) of Section 25603.5 of the Publie Recources Code, for which funds are currently available.

(2) One hundred seventy-eight thousand dollars ($178,000) for cash awards to winning competitors pursuant to subdivision (g) of Section 25603.5 of the Public Resources Code.

Such funds shall be used exclusively for actual expenses incurred in carrying out the purposes of this act. Any funds not expended for such purposes shall revert to the Environmental Protection Program Fund.

CHAPTER 1368

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

1 1992 0 14404

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. A grant in the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Avalon for the purpose of improving its domestic water supply system. Such grant shall be expended by the City of Avalon only for domestic water supply system facilities owned or operated by the City of Avalon. The Department of Water Resources shall verify that all expenditures under this act are necessary and appropriate.

SEC 2 The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the City of Avalon to immediately develop a secondary water supply in order to enable the over 600,000 residents and visitors to have a dependable and potable water supply.

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

In order to provide for a grant from the California Safe Drinking Water Fund to the City of Avalon to resolve critical domestic water supply problems at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1369

An act to amend Sections 1606 5, 2001, and 2006 of the Probate Code, relating to guardianship and conservatorship.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 1606.5 of the Probate Code is amended to read·

1606 5 In any proceeding for the appointment of a guardian for the person and estate or person or estate of an alleged incompetent person or for restoration of his capacity under this division, the alleged or adjudicated incompetent person shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses, but is unable to retain legal counsel, the court shall, at the time of the hearing, appoint the public defender or other attorney to represent him

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded.

In any case in which the alleged or adjudicated incompetent person is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon conclusion of the hearing, the court shall make a determination of the present ability of the alleged or adjudicated incompetent person to pay all or a portion of the costs of such counsel. If the court determines that the alleged or adjudicated incompetent person has the present ability to pay all or a portion of the costs, it shall order him or the guardian of the estate to pay the sum, in the case of the public defender, or court-appointed counsel, to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a guardian is not appointed for the alleged incompetent person, execution may be issued on the order in the same manner as on a judgment in a civil action If the court determines that the proposed ward or ward lacks the present ability to pay the costs of legal counsel appointed for him by the court, if private counsel is so appointed, the county shall pay to such counsel such costs as may be allowed him by the court.

SEC. 2. Section 2001 of the Probate Code is amended to read:

2001. (a) Whenever notice is required by the applicable provisions of this division, the court, upon good cause shown, may dispense with notice or may require such further or additional notice to be given as the court deems proper.

(b) Whenever the applicable provisions of this division do not fix the notice to be given, and if any notice be required, then notice of hearing shall be given to the persons and proof thereof made in the mode provided in Section 1200 of this code, unless the court dispenses with notice or requires such further or additional notice under the provisions of subdivision (a) of this section.

SEC. 3. Section 2006 of the Probate Code is amended to read:

2006. In any proceeding for the appointment of a conservator for the person and estate or person or estate of a proposed conservatee or for termination of a conservatorship under this division, the proposed conservatee shall be represented by legal counsel at the hearing, if he so chooses, irrespective of whether he appears to have capacity to make such choice. If he so chooses but is unable to retain legal counsel, the court shall, at the time of the hearing, appoint the public defender or other attorney to represent them.

The court shall hear and determine the matter according to the laws and procedure relating to civil actions, including trial by jury if demanded.

In any case in which the proposed conservatee or conservatee is furnished legal counsel, either through the public defender or private counsel appointed by the court, upon the conclusion of the hearing, the court shall make a determination of the present ability

of the proposed conservatee or conservatee to pay all or a portion of the costs of such counsel. If the court determines that the proposed conservatee or conservatee has the present ability to pay all or a portion of the costs, it shall order him or the conservator of the estate to pay the sum, in the case of the public defender, or court-appointed counsel to the county, and in the case of private counsel, to such counsel, in any installments and manner which is believed reasonable and compatible with his financial ability. If a conservator is not appointed for the proposed conservatee, execution may be issued on the order in the same manner as on a judgment in a civil action. If the court determines that the proposed conservatee or conservatee lacks the present ability to pay the costs of legal counsel appointed for him by the court, if private counsel is so appointed, the county shall pay to such counsel such costs as may be allowed by the court

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 1370

An act to amend Section 43151 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 43151 of the Health and Safety Code is amended to read·

43151. (a) No person who is a resident of, or who operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action.

(b) For purposes of this section, a new motor vehicle shall include any vehicle with an odometer reading of less than three thousand (3,000) miles.

(c) This section shall not apply to a vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that

such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

(d) "Established place of business," as used in this section, means a place actually occupied either continuously or at regular periods.

CHAPTER 1371

An act to add Section 21222.4 to the Government Code, relating to the Public Employees' Retirement Law.

[Approved by Governor September 30, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 21222.4 is added to the Government Code, to read:

21222.4. In addition to the increase of allowance authorized by and granted pursuant to the provisions of Section 21222 and notwithstanding the limitation in subdivision (b) of Section 21224, any monthly allowance computed under or limited by any section other than Section 21252.01, as amended by Chapter 96 of the Statutes of 1971, and paid with respect to a local safety member whose retirement or death before retirement occurred prior to the date the contracting agency elected to be subject to the provisions of Section 21252 01 as so amended, shall be increased by 15 percent. Such percentage shall be applied to the allowance payable on the date this section becomes applicable to the contracting agency and the allowance as so increased shall be paid for time on and after that date and until the first day of April immediately following the date of such application. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing with that annual adjustment.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's

contract

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or, in the case of contracts made after January 1, 1979, by express provision in such contract making the contracting agency subject to the provisions of this section.

CHAPTER 1372

An act to amend Sections 626, 631, and 632 of, and to repeal Section 625.1 of, the Welfare and Institutions Code, relating to juvenile court law

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 625.1 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 626 of the Welfare and Institutions Code is amended to read

626. An officer who takes a minor into temporary custody under the provisions of Section 625 shall thereafter proceed as follows:

(a) He may release such minor, or

(b) He may prepare in duplicate a written notice to appear before the probation officer of the county in which such minor was taken into custody at a time and place specified in the notice. The notice shall also contain a concise statement of the reasons such minor was taken into custody. He shall deliver one copy of the notice to such minor or to a parent, guardian, or responsible relative of such minor and may require such minor or his parent, guardian, or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon the execution of the promise to appear, he shall immediately release such minor. He shall, as soon as practicable, file one copy of the notice with the probation officer, or

(c) He may take such minor without unnecessary delay before the probation officer of the county in which such person was taken into custody, or in which such person resides, or in which the acts take place or the circumstances exist which are alleged to bring the minor within the provisions of Section 601 or 602, and deliver the custody of such minor to the probation officer. In no case shall he delay the delivery of the minor to the probation officer for more than 24 hours if such minor has been taken into custody without a warrant on the

belief that he has committed a misdemeanor.

In determining which disposition of the minor he will make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided such alternative is compatible with the best interests of the minor and the community.

SEC 3. Section 631 of the Welfare and Institutions Code is amended to read:

631 (a) Except as provided in subdivision (b), whenever a minor is taken into custody by a peace officer or probation officer, except when such minor willfully misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within said period of time a petition to declare him a ward has been filed pursuant to the provisions of this chapter or a criminal complaint against him has been filed in a court of competent jurisdiction.

(b) Whenever a minor is taken into custody by a peace officer or probation officer without a warrant on the belief that the minor has committed a misdemeanor, except when such minor misrepresents himself as 18 or more years of age, such minor shall be released within 48 hours after having been taken into custody or on the next judicial day, whichever is later, unless a petition has been filed to declare the minor to be a ward and the minor has been ordered detained by a judge or referee of the juvenile court pursuant to Section 635.

(c) Whenever a minor who has been held in custody for more than six hours by the probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than six hours The written explanation shall be prepared within 72 hours after the minor is released from custody and filed in the record of the case. A copy of the written explanation shall be sent to the parents, guardian, or other person having care or custody of the minor.

SEC. 4. Section 632 of the Welfare and Institutions Code is amended to read:

632. Unless sooner released, a minor taken into custody under the provisions of this article shall be brought before a judge or referee of the juvenile court for a hearing (which shall be referred to as a "detention hearing") to determine whether the minor shall be further detained, as soon as possible but in any event before the expiration of the next judicial day after a petition to declare such minor a ward or dependent child has been filed. A minor taken into custody without a warrant on the belief that he has committed a misdemeanor shall be brought before a judge or referee of the juvenile court for a hearing to determine whether the minor shall be further detained as soon as possible but in no event beyond 48 hours or before the expiration of the next judicial day after having been taken into custody, whichever is later, after a petition to declare such minor a ward has been filed. If the minor is not brought before a judge or referee of the juvenile court within the period prescribed by this section, he shall be released from custody.

CHAPTER 1373

An act to amend Sections 1065.2, 3624, 3625, and 3663 of, and to add Sections 452.1, 1063 1, 3519.1, 3626, 3626.5, and 3627, to, the Public Utilities Code, relating to cement carriers.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 452.1 is added to the Public Utilities Code, to read:

452.1. Any provision in the tariff of a cement carrier in effect as of January 1, 1978, shall be deemed prima facie just, reasonable, and nondiscriminatory if the cement carrier was actually engaged in transportation pursuant to such provision during the immediately preceding calendar year; provided, that any person may file a protest with the commission, bearing the burden of establishing that the provision is unjust, unreasonable, or discriminatory. In the event such a protest is filed, the commission shall, with or without a hearing, make a finding as to whether the provision is just, reasonable, and nondiscriminatory.

SEC. 2. Section 1063.1 is added to the Public Utilities Code, to read:

1063.1. The commission shall, upon application, grant to every cement contract carrier a certificate to operate as a cement carrier as to the counties to which it was authorized to transport cement as a contract carrier, provided that each such cement contract carrier applies to the commission for such a certificate prior to June 30, 1979.

SEC. 3. Section 1065.2 of the Public Utilities Code is amended to read:

1065.2. A certificate of public convenience and necessity to operate as a cement carrier shall remain in effect until it is suspended or terminated by the commission, except that any such certificate not exercised for a period of 12 consecutive months, inclusive of all periods of suspension, shall lapse and terminate.

SEC. 4. Section 3519.1 is added to the Public Utilities Code, to read:

3519.1. "Cement carrier" means any corporation or person operating within this state, engaged as a common carrier, other than a highway common carrier, for compensation in the ownership, control, operation or management of any motor vehicle loaded substantially to capacity with and transporting portland or similar cements, either alone or in combination with lime or powdered limestone, in bulk or in packages over any public highway in this state.

SEC. 5. Section 3624 of the Public Utilities Code is amended to read:

3624. A permit to operate as a cement contract carrier shall remain in effect until suspended or terminated by the commission, except that any such permit not exercised for a period of six consecutive months, inclusive of all periods of suspension, shall lapse and terminate.

SEC. 6. Section 3625 of the Public Utilities Code is amended to read:

3625. No permit to operate as a cement contract carrier, pursuant to this article, shall be sold, leased, assigned or otherwise transferred or encumbered by the holder without first having secured authorization therefor from the commission. Any sale, assignment, transfer or encumbrance of any permit to operate as a cement contract carrier made otherwise than in accordance with the order of the commission is void.

The commission shall not issue an authorization except upon a finding that the transferee meets all the criteria requisite to an approval of an original applicant, as set forth in Section 3623.

SEC. 7. Section 3626 is added to the Public Utilities Code, to read:

3626. Any cement contract carrier permit comprising one or more counties shall be construed as one permit and shall only be sold, leased, assigned, or otherwise transferred or encumbered as a single entity.

SEC. 8. Section 3626.5 is added to the Public Utilities Code, to read.

3626.5. Cement contract carriers shall have written contracts, a copy of which shall be on file with the commission, before performance under the contract commences. The contract shall be a bilateral contract including the following essential terms: (a) parties, (b) time of performance, (c) subject matter, and (d) compensation.

SEC. 9. Section 3627 is added to the Public Utilities Code, to read:

3627. The existence of more than five contracts contemporaneously in effect shall be prima facie evidence of a holding out by a cement contract carrier as a cement carrier.

SEC. 10. Section 3663 of the Public Utilities Code is amended to read:

3663 In the event the commission establishes minimum rates for transportation services by highway permit carriers, the rates shall not exceed the current rates of common carriers by land subject to Part 1 (commencing with Section 201) of Division 1 for the transportation of the same kind of property between the same points, except when minimum rates have been established for the transportation of Portland or similar cements for which specialized operating authority is required by Section 3519 or 3519.1.

CHAPTER 1374

An act to add Section 1670 to the Civil Code, relating to unlawful contracts.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 1670 is added to the Civil Code, to read:

1670. Any dispute arising from a construction contract with a public agency, which contract contains a provision that one party to the contract or one party's agent or employee shall decide any disputes arising under that contract, shall be resolved by submitting the dispute to independent arbitration, if mutually agreeable, otherwise by litigation in a court of competent jurisdiction.

CHAPTER 1375

An act to amend Section 25519 of the Public Resources Code, relating to energy

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments

required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) Upon receipt of the application, the commission shall undertake studies and investigations necessary to comply with the environmental impact reporting procedures established pursuant to Section 21100. For purposes of preparation and approval of the environmental impact report on a proposed site and related facility, the commission shall be the lead agency as provided in Section 21165. Except as otherwise provided in Division 13 (commencing with Section 21000), the environmental impact report shall be completed within one year after receipt of the application.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission

regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending

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CHAPTER 1376

An act to amend Sections 1007, 1009, 5000, 5003, 5007, 5012, 19422, 19423, 19424, 19510, 19511, 19700, and 19702 of, to add Sections 5012.5 and 5224.1 to, and to add and repeal Section 5300.1 of, the Education Code, to amend Sections 1005, 2500, 2601, 2602, 2604, 10217, 10217.5, 22836, 22840, 22840.5, 23511, 23512, 23519, 23520, and 23521.5 of, and to repeal Section 23505 of, the Elections Code, to amend Section 36503 of the Government Code, relating to elections.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 1007 of the Education Code is amended to read:

1007. Members of the county board of education shall be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided such elections are held throughout the county on the same date; otherwise the election shall be consolidated with the direct primary election. Once established, no subsequent change of circumstances shall require that the time of holding the election be changed. Where the elections for governing board members are held on the same date, then the provisions of Section 5303 of this code shall apply to the election of members of the county board of education. The first election held under this article shall be conducted by the county board of supervisors and thereafter by the county board of education. Members elected at the time of the direct primary shall take office on the first day of the July, and members elected at the date on which members of school district governing boards are elected shall take

office on the last Friday in November subsequent to their election and shall serve for a term to be determined for each county by the county committee on school district organization. The county committee on school district organization shall also determine the manner in which the county board of education first elected shall effect a staggering of terms.

SEC. 1.2. Section 1009 of the Education Code is amended to read:

1009 The county board of education shall organize at a meeting held in each year by electing one of their number president of the board. The meeting at which the organization is conducted shall be either the first meeting on or after the last Friday in November, or the first meeting on or after the first day in July, depending upon whether, pursuant to Section 1007, the terms of office of board members commence on the last Friday in November or the first day in July.

SEC. 1.6. Section 5000 of the Education Code is amended to read:

5000. After the initial election of governing board members in any school district or community college district, a governing board member election shall be held biennially on the first Tuesday after the first Monday in November of each succeeding odd-numbered year to fill the offices of members whose terms expire on the last Friday in November next succeeding the election. Except as provided in this chapter, or in Chapter 2 (commencing with Section 5200) of this part, the elections shall be held and conducted in accordance with the provisions of Chapter 3 (commencing with Section 5300) of this part.

SEC. 2 Section 5003 of the Education Code is amended to read:

5003. Notwithstanding the provisions of Sections 35105 and 5000, in the case of a unified school district formed in an even-numbered year, where in connection with the formation of which the first governing board was elected in such even-numbered year, all of the members of such first elected governing board shall serve until the last Friday in November of the second succeeding odd-numbered year. Their successors shall be elected at an election conducted on the first Tuesday after the first Monday in November of such second succeeding odd-numbered year. The majority of such successors receiving the highest number of votes shall serve until the last Friday in November of the second odd-numbered year thereafter succeeding. The other members' terms shall expire on the last Friday in November of the first odd-numbered year thereafter succeeding.

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

5007 When an elementary, unified, high school, or community college district includes within its boundaries the same territory, or territory that is in part the same, as a city which holds a city election on the second Tuesday in April in each even-numbered year, the consolidated governing board member elections of the elementary, unified, high school, or community college district, may, at the discretion of the county superintendent of schools, be held on the second Tuesday in April in the even-numbered year and may be

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

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

SEC. 3.1. Section 5012 of the Education Code is amended to read:

5012. In any school district or community college district governing board election the name of any registered voter shall be placed on the ballot if there is filed with the county clerk having jurisdiction not more than 89 days nor less than 68 days prior to the election a declaration of candidacy substantially in the form set forth in subdivision (a) of Section 5032, containing the appropriate information in the blank spaces and signed by the registered voter whose name is thereby to be placed on the ballot.

No candidate whose declaration of candidacy has been filed for any school district or community college district governing board election or county board of education election may withdraw as a candidate after the 68th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one district office, including a county board of education office, at the same election.

SEC. 3.2. Section 5012.5 is added to the Education Code, to read:

5012.5. Notwithstanding the provisions of Section 5012, if nomination papers for an incumbent elective member of a school district or community college district governing board or of a county board of education are not filed by 5 o'clock p.m. on the 68th day before the election, the voters shall have until 5 o'clock p.m. on the 63rd day before an election to nominate candidates other than the incumbent for such elective office.

SEC. 3 4. Section 5224.1 is added to the Education Code, to read:

5224 1. The provision of Section 5224 shall not apply to a school district which is situated in a city governed by a charter and the charter provides for a governing board consisting of seven members each elected from a district, as determined by the city council by ordinance, containing as nearly as practicable one-seventh of the

total population of the school district. The governing board of such a school district shall be elected and constituted as provided in the charter and other applicable law.

SEC 3.5. Section 5300.1 is added to the Education Code, to read:

5300.1. Notwithstanding any other provision of law, the regular election to select members of the board of education of the Palo Alto Unified School District may be held on the first Tuesday after the first Monday in March of 1979.

This section shall remain in effect only until December 31, 1979, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1980, deletes or extends such date

SEC. 4. Section 19422 of the Education Code is amended to read:

19422. The trustee shall hold office for the term of four years beginning on the last Friday in November next succeeding their appointment or election.

SEC. 5. Section 19423 of the Education Code is amended to read:

19423 The first board of library trustees appointed or elected in a district shall at their first meeting so classify themselves by lot that their terms shall expire: one on the last Friday in November of the first odd-numbered calendar year next succeeding his appointment or election, and two on the last Friday in November of the second succeeding odd-numbered calendar year.

SEC. 6. Section 19424 of the Education Code is amended to read:

19424. At its first meeting called after the original appointment of the board, and annually thereafter at its first meeting called after the last Friday in November in odd-numbered years, the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

SEC. 7. Section 19510 of the Education Code is amended to read:

19510 An election shall be held biennially in each library district for the election of one or more library trustees who shall hold office for four years beginning on the last Friday in November next succeeding his election. This election shall be held in the district on the same day as the school district election as specified in Section 5000 in the odd-numbered years. Trustees shall be nominated in the manner prescribed in Section 5012.

SEC. 8. Section 19511 of the Education Code is amended to read:

19511. To be qualified to vote at any library district election a person shall be registered to vote in the library district, at least 29 days before the election.

SEC 9. Section 19700 of the Education Code is amended to read:

19700. (a) Except as otherwise provided in this article, the *Uniform District Election Law* (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code) shall govern and control the conduct of elections pursuant to this chapter. Elections shall be held biennially in the district on the same day as the school district election as specified in Section 5000 in the odd-numbered years.

(b) The trustees shall hold office for the term of four years beginning on the last Friday in November next succeeding their appointment or election.

(c) The members of the first board of library trustees appointed or elected in a district shall, at their first meeting, so classify themselves by lot that their terms shall expire: two on the last Friday in November of the first odd-numbered calendar year next succeeding their appointment or election, and three on the last Friday in November of the second succeeding odd-numbered calendar year.

SEC 10. Section 19702 of the Education Code is amended to read:

19702. Every person who is registered to vote in the library district where the election is held at least 29 days before the election, may vote at the election.

SEC. 11. Section 1005 of the Elections Code is amended to read:

1005. Whenever, on the 54th day before the election, there are 30 or less persons registered to vote in any precinct, or, in the case of a municipal, school district, or special district election, 100 or less persons registered to vote in any precinct, the elections official may furnish each voter with an absentee ballot along with a statement that there will be no polling place for the election. If the election is to be held entirely by absentee ballot, the voter shall not be required to file an application for the absentee ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to the provisions of this section.

SEC. 12. Section 2500 of the Elections Code is amended to read:

2500. Three regular election dates shall be established in each year as follows:

(1) The second Tuesday of April of each even-numbered year.

(2) The first Tuesday after the first Monday in March of each odd-numbered year.

(3) The first Tuesday after the first Monday in June of each year.

(4) The first Tuesday after the first Monday in November of each year.

SEC. 13. Section 2601 of the Elections Code is amended to read:

2601. A general municipal election shall be held on the second Tuesday in April of even-numbered years.

SEC 14. Section 2602 of the Elections Code is amended to read:

2602. Except as otherwise provided, the regular election to select governing board members in any school district shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.

SEC. 14.2 Section 2604 of the Elections Code is amended to read:

2604 If any election to choose members of the governing board of a special district is to be totally conducted by mailed ballot, it shall be held on the first Tuesday following the first Monday in September of each odd-numbered year, except as provided in Section 23509.5.

SEC 15. Section 10217 of the Elections Code is amended to read:

10217. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be four such drawings, three in each even-numbered year and one in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the 62nd day before the April general law city elections and shall apply to those elections and any other elections held at the same time.

The second shall take place on the 82nd day before the direct primary in June of an even-numbered year and shall apply to all candidates on the ballot in that election.

The third shall take place on the 63rd day before the November general election of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

The fourth drawing shall take place on the 62nd day before the first Tuesday after the first Monday in November of the odd-numbered year and shall apply to all candidates on the ballot in the elections held on that date.

In the event there is to be an election of candidates to a special district, school district, charter city, or other local government body at the same time as one of the four major election dates specified

above and the last possible day to file nomination papers for the local election would occur after the date of the drawing for the major election date, the procedure set forth in Section 10217.5 shall apply.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative The state chairman of each qualified political party shall be invited to attend or send a representative in the case of drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first weekday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC 15.1. Section 10217.5 of the Elections Code is amended to read

10217 5. In the case of an election of candidates in a special district, school district, charter city (whose charter does not provide to the contrary), or other local government body, occurring on other than one of the four major election dates specified in subdivision (b) of Section 10217, the official responsible for conducting the election shall, at the same time that the election is called, notify the Secretary of State by registered mail of the date of the election, the date of the close of filing, and the last possible date for filing in the event there is an extension of filing due to an incumbent failing to file. The Secretary of State shall conduct a randomized alphabet drawing on the first weekday following the last possible day of filing for such an election according to the provisions of subdivision (a) of Section 10217 If two or more such drawings for local government elections would occur on the same date, the Secretary of State may use a single randomized alphabet drawing for all such elections. The Secretary of State shall communicate the results of the drawing by registered mail to each respective official responsible for conducting the election who shall use it to determine the order on the ballot of all candidates' names All such drawings shall be open to the public.

SEC. 16. Section 22836 of the Elections Code is amended to read:

22836 Candidates may be nominated for any of the elective offices of the city in the manner following.

Not earlier than the 89th day nor later than 5 p.m. on the 68th day before a municipal election, the voters may nominate candidates for

election by signing a nomination paper. Each candidate shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, and not less than 5 nor more than 10 voters in a city of less than 1,000 registered voters, but only one candidate may be named in any one nomination paper. No voter may sign more than one nomination paper for the same office, and in the event he does so, his signature shall count only on the first nomination paper filed which contains his signature. Nomination papers subsequently filed and containing his signature shall be considered as though his signature does not appear thereon. Each seat on the governing body is a separate office. Any person registered to vote at the election may circulate a nomination paper. Where there are full terms and short terms to be filled, the term shall be specified in the nomination paper.

SEC. 16.2. Section 22840 of the Elections Code is amended to read:

22840. All nomination papers shall be filed with the city clerk during regular business hours not later than 5 p.m. on the 68th day before the election. Until that time, but no later than then, a candidate may withdraw his nomination paper after it is filed with the city clerk as provided in this section.

SEC. 16.3. Section 22840.5 of the Elections Code is amended to read:

22840.5. Notwithstanding the provisions of Sections 22836 and 22840, if nomination papers for an incumbent elective officer of the city are not filed by 5 p.m. on the 68th day before the election, the voters shall have until 5 p.m. on the 63rd day before the election to nominate candidates other than the incumbent for such elective office.

SEC. 17. Section 23505 of the Elections Code is repealed.

SEC. 20.3. Section 23511 of the Elections Code is amended to read:

23511. At least 70 days, and not more than 110 days, before the day fixed for the general district election the county clerk of the principal county shall publish a notice of the election once in a newspaper of general circulation published in the district or, if no such newspaper is published in the district, in a newspaper having general circulation in the district published in any affected county in the district. The notice shall contain the date of the general district election and shall name the offices for which candidates may be nominated. The notice shall state the qualifications required by the principal act for each office for which candidates may be nominated. The notice shall state that official nominating petitions for eligible candidates desiring to file for any of the elective offices may be obtained from either the office of the secretary of the district or the office of the county clerk. The notice shall state that appointment to each elective office will be made as prescribed by Section 23520 in the event there are no nominees or an insufficient number of nominees for such office and a petition for an election is not filed

within the time period prescribed by Section 23520.

SEC. 20.4. Section 23512 of the Elections Code is amended to read:

23512. Forms for petitions required for nomination to all district offices shall be obtained from the office of the county clerk. The county clerk may, for convenience or necessity, authorize the district secretary to issue nomination forms. The forms shall first be available on the 89th day prior to the general district election and shall be filed not later than 5 p.m. on the 68th day prior to the general district election in the office of the county clerk during regular office hours or may be filed by certified mail so that the forms reach the clerk's office no later than the deadline for filing in that office. At the time of issuance of such forms, there shall be filled in the name of the candidate and the office for which he is a candidate. The form shall be marked "Official Filing Petition" and signed by the county clerk. The petition shall be signed by not less than 10 nor more than 20 voters or by not less than 25 percent nor more than 50 percent of the voters if the same be less than 40. The county clerk shall record the date of filing upon the first page of each petition filed pursuant to this section. No candidate shall withdraw his nomination paper after 5 p m. on the 68th day prior to the general district election.

On request of the district secretary, the county clerk shall provide the secretary with a copy of each nominating petition filed pursuant to this section.

SEC. 20.5. Section 23519 of the Elections Code is amended to read:

23519. The notice required in Section 23518 shall state the following:

(a) That such condition or conditions existed at the time the notice was submitted to the newspaper for publication;

(b) The elective offices for which there were no nominees or an insufficient number of nominees at the time the notice was submitted to the newspaper for publication; and

(c) That if such condition or conditions relating to such elective offices exist on the 63rd day prior to the day fixed for the general district election and a petition signed by 5 percent of the voters in the district, or division if elected by division, requesting that a general district election be held for such offices has not been presented to the secretary of the district, appointment will be made as prescribed by Section 23520.

SEC. 20.6. Section 23520 of the Elections Code is amended to read:

23520. If, by 5 p.m. on the 63rd day prior to the day fixed for the general district election: only one person has been nominated for any elective office to be filled at that election, or no one has been nominated for such office; or in the case of directors to be elected from the district at large, the number of nominees for director at large does not exceed the number of offices of director at large to be filled at that election; or in the case of directors to be nominated by

division and elected at large, the number of nominees for director at large from a division does not exceed the number required to be elected director at large nominated from that division, and if a petition signed by 5 percent of the voters in the district, or division if elected by division, requesting that the general district election be held has not been presented to the governing body of the district, the county clerk, upon receipt of the notice required in Section 23522, shall submit a certificate of these facts to the supervising authority and request that the supervising authority, at a regular or special meeting held prior to the last Monday before the last Friday in November in which the election is held, appoint to such office or offices the person or persons, if any, who have been nominated. The supervising authority shall make such appointments. If no person has been nominated for any office, the supervising authority shall appoint any person to the office who is qualified on the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a general district election for such office

Where a director must be appointed to represent a division, all or most of which is not within the county governed by the supervising authority, then the board of supervisors of the county within which all or most of that division is located shall be the body to which request for appointment is made and which shall make such appointment.

SEC. 20.7. Section 23521.5 of the Elections Code is amended to read:

23521.5. Notwithstanding the provisions of Section 23512, if nomination papers for an incumbent elective officer of a district are not filed by 5 o'clock p.m. on the 68th day before the general district election, the voters shall have until 5 o'clock p.m. on the 63rd day before the election to nominate candidates other than the incumbent for such elective office.

SEC. 22. Section 36503 of the Government Code is amended to read:

36503. Unless otherwise required by Section 34329.1 of this code, a general municipal election shall be held on the second Tuesday in April in each even-numbered year. Except as otherwise provided in this title, city councilmen, the city clerk, and the city treasurer shall be elected by the city electors at a general municipal election. City councilmen, the city clerk, and the city treasurer shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC. 26. For purposes of implementing the changes in the dates of the commencement and termination of the terms of office of trustees of library districts, school districts, and community college districts effected by the Legislature at the 1977–78 Regular Session of the Legislature, trustees whose terms are expiring in March, 1979 shall continue to serve in the offices involved until November 30, 1979. Trustees whose terms are expiring in March, 1981, shall

continue to serve in the offices involved until November 27, 1981.

SEC. 29. It is the intent of the Legislature that the amendments proposed by this bill amending Section 1005 of the Elections Code, as set forth in Section 11 of this act, shall not become operative if Senate Bill 1363, which also amends Section 1005, is chaptered.

CHAPTER 1377

An act to add Section 52302.9 to the Education Code, relating to regional occupational centers and programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 52302.9 is added to the Education Code, to read:

52302.9 Regional occupational centers and programs may jointly establish, operate, and share the enrollments and costs of vocational education instruction with adult education programs offered by school districts serving the same geographic area. Such programs shall be approved by the State Board of Education and the county superintendent of schools and shall be subject to guidelines established by the Superintendent of Public Instruction. Such programs shall also be funded at the adult foundation program amount provided pursuant to Section 41840.

SEC 2 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are:

In order to permit school districts to maintain cooperative programs prescribed by this act for the entire 1978–79 school year and thus facilitate their orderly administration, it is necessary that this act take effect immediately.

CHAPTER 1378

An act to amend Section 46300 of the Education Code, relating to school attendance

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 46300 of the Education Code, as proposed by the 1977 Education Code Supplemental Act, is amended to read:

46300. (a) In computing average daily attendance of a school district, there shall be included only the attendance of pupils while engaged in educational activities required of such pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him to render service in the capacity and during the period in which he served. For the purposes of computing the average daily attendance of students enrolled in kindergarten or any of grades 1 through 12 in a school district, attendance shall also include pupil attendance and participation in an independent study program under the coordination, evaluation, and general, but not immediate, supervision of an employee of the district who possessed a valid certification document. The nature, manner, and place of conducting any independent study program shall be determined by the school district pursuant to rules and regulations adopted by the State Board of Education and shall be an integral part of any decision pursuant to Section 48907 5 to suspend the expulsion action of the board. The school district shall ensure that the components of each individual study program for each individual pupil shall be set out in writing A pupil enrolled in an independent study program shall not be credited with more than one day of attendance in any calendar day, and shall be enrolled in a school program for which Section 46112, 46113, or 46141 provides for the minimum schoolday.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 46141 or 46144

(c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48907.5, "immediate supervision" in such schools, classes or programs mean pupil participation in such programs wherein the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district. Such programs shall be approved by the Department of Education

and certified by the county superintendent of schools.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance in any calendar day.

(d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for such educational activities which are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education; provided that none of such attendance is counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision shall be 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor shall be 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or regional occupational program shall not be used in any manner in the computation of average daily attendance.

CHAPTER 1379

An act to amend Sections 129, 3700, 3701, 3702, and 3702.5 of, and to add Sections 3702.2 and 3702.3 to, the Labor Code, relating to lawfully uninsured employers, and making an appropriation therefor.

[Approved by Governor September 30, 1978. Filed with Secretary of State September 30, 1978.]

I am reducing the appropriation contained in Section 8 of Assembly Bill No. 840 from $190,000 to $104,000.

I am eliminating the $86,000 to reimburse local agencies for costs incurred under this bill because I have been assured that the Department of Industrial Relations will implement this legislation in a manner which will not result in any additional costs to local agencies

With this reduction, I approve Assembly Bill No 840

EDMUND G. BROWN JR., Governor

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

SECTION 1. Section 129 of the Labor Code is amended to read:

129. To make certain that injured workmen, and their dependents in the event of their death, receive promptly and accurately the full measure of benefits to which they are entitled:

(a) The Insurance Commissioner shall audit insurance carriers for insured employers.

(b) The Director of Industrial Relations shall audit all self-insured employers other than the state.

(c) The Insurance Commissioner and the Director of Industrial Relations as to their respective audits, after notice to and opportunity to be heard by the parties in interest, shall adopt and enforce rules and regulations to make fully effective the purpose and intent of this section.

SEC 2 Section 3700 of the Labor Code is amended to read:

3700 Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

(c) For all political subdivisions of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702.

SEC. 3. Section 3701 of the Labor Code is amended to read:

3701. The Director of Industrial Relations shall require a private self-insuring employer to deposit, a surety bond, or, in trust, cash, securities, cash and securities, or cash and a surety bond, approved by the Director of Industrial Relations, and in an amount determined by the director, to secure incurred liabilities for the payment of compensation as compensation is defined in Section 3207. The minimum deposit shall be one hundred thousand dollars ($100,000) or 100 percent of the private self-insurer's liability for the payment of compensation, whichever is greater.

(a) Surety bonds shall be deposited with the Director of Industrial Relations.

(b) Securities shall be deposited with the State Treasurer. Securities shall be accepted by the State Treasurer for deposit and shall be withdrawn only upon written order of the Director of

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Industrial Relations.

(c) Cash shall be deposited in a financial institution approved by the Director of Industrial Relations, and in the account assigned to the Director of Industrial Relations. Cash shall be withdrawn only upon written order of the Director of Industrial Relations.

SEC. 4. Section 3702 of the Labor Code is amended to read:

3702. A certificate of consent to self-insure may be revoked by the Director of Industrial Relations at any time for good cause after a hearing. Good cause includes, among other things, the impairment of the solvency of such employer to the extent that there is a marked reduction of the employer's financial strength, frequent or flagrant violations of state safety and health orders, the inability of the employer to fulfill his obligations, or the practice by such employer or his agent in charge of the administration of obligations under this division of any of the following:

(a) Habitually and as a matter of practice and custom inducing claimants for compensation to accept less than the compensation due or making it necessary for them to resort to proceedings against the employer to secure the compensation due.

(b) Discharging his compensation obligations in a dishonest manner.

(c) Discharging his compensation obligations in such a manner as to cause injury to the public or those dealing with him.

SEC. 5. Section 3702.2 is added to the Labor Code, to read:

3702.2. A political subdivision of the state which has outstanding a certificate of consent to self-insure shall file a Self-Insurer's Annual Report in a form prescribed by the director, but shall not be required to file an itemized list of open indemnity cases.

SEC. 6. Section 3702.3 is added to the Labor Code, to read:

3702.3. Failure to submit reports or information as deemed necessary by the director to implement the purposes of Section 3701 or 3702 may result in the assessment of a penalty which shall not exceed 10 percent per month, or fraction thereof, for a period not to exceed 12 months, of the annual license fee. Moneys collected shall be used for the administration of self-insurance plans.

SEC. 7. Section 3702.5 of the Labor Code is amended to read:

3702.5. The cost of administration of the public self-insured program by the Director of Industrial Relations shall be a General Fund item. The cost of administration of the private self-insured program by the Director of Industrial Relations shall be borne by the private self-insurers through payment of license fees which shall be established by the director in broad ranges based on the comparative numbers of employees insured by the private self-insurers and the number of adjusting locations. The director may assess a penalty for late filing which shall not exceed 10 percent per month, or fraction thereof, of the amount of the fee due.

SEC. 8. The sum of one hundred ninety thousand dollars ($190,000) is hereby appropriated from the General Fund to be allocated as follows:

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(1) To the Department of Industrial Relations for the purposes of this act $104,000

(2) To the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act $86,000

CHAPTER 1380

An act to add Chapter 1.5 (commencing with Section 3372) to Title 3 of Part 1 of Division 4 of the Civil Code, relating to investment advisers

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Chapter 1.5 (commencing with Section 3372) is added to Title 3 of Part 1 of Division 4 of the Civil Code, to read:

CHAPTER 1 5. INVESTMENT ADVISERS

3372. (a) Any person engaged in the business of advising others for compensation as to the advisability of purchasing, holding or selling property for investment and who represents himself or herself to be an expert with respect to investment decisions in such property, or any class of such property, shall be liable to any person to whom such advisory services are furnished for compensation and who is damaged by reason of such person's reliance upon such services, for the amount of such compensation and for such damages, unless the person rendering such services proves that such services were performed with the due care and skill reasonably to be expected of a person who is such an expert.

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

(1) A person represents that such person is an "expert" within the meaning of this section if such person represents that he or she is an "investment adviser," "investment counselor" or "investment consultant" or that such person renders "investment advisory services," "investment counseling services" or "investment consulting services" or makes substantially equivalent representations with respect to such person's business or qualifications

(2) "Person" includes an individual, corporation, partnership, joint venture, an association, joint stock company, a trust or unincorporated association

(c) The following persons are not liable under the provisions of this section:

(1) Any person, when engaged in the purchase or sale of tangible personal property for his or her own account, and the agents and employees of such persons.

(2) Any person, and the agents and employees of such person, licensed under, exempted from licensing under, or not subject to licensing under by reason of an express exclusion from a definition contained in, the Commodity Exchange Act, the Investment Advisers Act of 1940, the California Commodity Law, the Corporate Securities Law of 1968, the Insurance Code, the Real Estate Law, or any state or federal law for the licensing and regulation of banks or savings and loan associations.

CHAPTER 1381

An act to amend Section 776 of the Public Utilities Code, and to amend Section 3 of Chapter 705 of the Statutes of 1976, relating to public utilities.

[Approved by Governor September 30, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 776 of the Public Utilities Code is amended to read:

776. (a) The commission may permit a telephone corporation to assess a separate charge for provision of telephone numbers by operators, over and above what is included in the monthly service charge, when a residential customer places more than 20 requests for telephone numbers during a monthly billing cycle period. A separate charge may also be assessed on business customers for all requests for telephone numbers in excess of 20 per monthly billing cycle period, as approved by the commission.

(b) Whenever such separate charge is put into effect pursuant to subdivision (a), any use of a recorded announcement before the operator's response to a request for a telephone number shall be discontinued.

(c) After January 1, 1983, the commission shall review the results of any charging plan put into effect by telephone corporations pursuant to subdivision (a) of this section and by April 1, 1983, shall provide a determination and order concerning telephone corporation directory assistance programs.

SEC. 2. Section 3 of Chapter 705 of the Statutes of 1976 is amended to read:

Sec. 3. This act shall remain in effect only until April 1, 1983, and as of such date is repealed, unless a later enacted statute, which is

chaptered before April 1, 1983, deletes or extends such date.

CHAPTER 1382

An act to amend Section 9914 of, to repeal Section 9902.8 of, and to repeal Chapter 21.5 (commencing with Section 9999) of Division 3 of, the Business and Professions Code, and to amend the heading of Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of, to amend Sections 1700.2, 1700.3, 1700.4, 1700 5, 1700.6, 1700.7, 1700 9, 1700.11, 1700.12, 1700.13, 1700.15, 1700.16, 1700.17, 1700.19, 1700.20a, 1700.20b, 1700.23, 1700.24, 1700.25, 1700.26, 1700.27, 1700.28, 1700.30, 1700.31, 1700.32, 1700.33, 1700.34, 1700.35, 1700.36, 1700.37, 1700.38, 1700.39, 1700.40, 1700.41, 1700.43, and 1700.45 of, to add Section 1700.47 of, and to repeal and add Section 1700.10 of, the Labor Code, relating to talent agencies.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 9902 8 of the Business and Professions Code is repealed.

SEC. 1.5. Section 9914 of the Business and Professions Code is amended to read·

9914. Nothing in this chapter shall apply to a talent agency as defined or licensed under Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of the Labor Code.

SEC. 2. Chapter 21.5 (commencing with Section 9999) of Division 3 of the Business and Professions Code is repealed.

SEC. 3. The heading of Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of the Labor Code is amended to read:

CHAPTER 4. TALENT AGENCIES

SEC. 4. Section 1700.2 of the Labor Code is amended to read·

1700.2 As used in this chapter, "fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting the business of a talent agency under this chapter.

(b) Any money received by any person in excess of that which has been paid out by him for transportation, transfer of baggage, or board and lodging for any applicant for employment

(c) The difference between the amount of money received by any person who furnished employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, and the amount paid by him to such employee, performer, or entertainer

SEC. 5. Section 1700.3 of the Labor Code is amended to read:

1700.3. As used in this chapter:

(a) "License" means a license issued by the Labor Commissioner to carry on the business of a talent agency under this chapter.

(b) "Licensee" means a talent agency which holds a valid, unrevoked, and unforfeited license under this chapter.

SEC. 6. Section 1700.4 of the Labor Code is amended to read:

1700.4. A talent agency is hereby defined to be a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists. Talent agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures; radio artists; musical artists; musical organizations; directors of legitimate stage, motion picture and radio productions; musical directors; writers; cinematographers; composers; lyricists; arrangers; and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

SEC. 7. Section 1700.5 of the Labor Code is amended to read:

1700.5. No person shall engage in or carry on the occupation of a talent agency without first procuring a license therefor from the Labor Commissioner. Such license shall be posted in a conspicuous place in the office of the licensee.

Licenses issued for talent agencies prior to the effective date of this chapter shall not be invalidated thereby, but renewals of such licenses shall be obtained in the manner prescribed by this chapter.

SEC. 8. Section 1700.6 of the Labor Code is amended to read:

1700.6. A written application for a license shall be made to the Labor Commissioner in the form prescribed by him and shall state:

(a) The name and address of the applicant.

(b) The street and number of the building or place where the business of the talent agency is to be conducted.

(c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.

(d) If the applicant is other than a corporation, the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates or profit sharers, in the operation of the talent agency in question, together with the amount of their respective interests.

If the applicant is a corporation, the corporate name, the names, residential addresses and telephone numbers of all officers of the corporation, the names of all persons exercising managing responsibility in the applicant or licensee's office, and the names and addresses of all persons having a financial interest of 10 percent or more in the business and the percentage of financial interest owned by such persons.

The application must be accompanied by affidavits of at least two

reputable residents, who have known, or been associated with, the applicant for two years, of the city or county in which the business of the talent agency is to be conducted that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.

SEC 9 Section 1700.7 of the Labor Code is amended to read:

1700 7 Upon receipt of an application for a license the Labor Commissioner may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct the business of the talent agency.

SEC. 10. Section 1700 9 of the Labor Code is amended to read·

1700 9 No license shall be granted to conduct the business of a talent agency

(a) In rooms used for living purposes

(b) Where boarders or lodgers are kept.

(c) Where meals are served.

(d) Where persons sleep

(e) In connection with a building or premises where intoxicating liquors are sold or consumed

(f) To a person whose license has been revoked within three years from the date of application.

SEC. 11 Section 1700.10 of the Labor Code is repealed.

SEC 11.5. Section 1700 10 is added to the Labor Code, to read:

1700.10 The license when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership, such license shall be renewed within the 30 days preceding the birthday of the oldest partner If the applicant is a corporation, such license shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or new bond be submitted

If the applicant or licensee desires, in addition, a branch office license, he shall file an application in accordance with the provisions of this section as heretofore set forth.

SEC. 11.8. Section 1700.11 of the Labor Code is amended to read:

1700.11. All applications for renewal shall state the names and addresses of all persons, except bona fide employees on stated salaries, financially interested either as partners, associates or profit sharers, in the operation of the business of the talent agency.

SEC. 12. Section 1700.12 of the Labor Code is amended to read:

1700.12 A filing fee of twenty-five dollars ($25) shall be paid to the Labor Commissioner at the time the application for issuance of a talent agency license is filed

In addition to the filing fee required for application for issuance of a talent agency license, every talent agency shall pay to the Labor

Commissioner annually at the time a license is issued or renewed·

(a) A license fee of one hundred fifty dollars ($150).

(b) Fifty dollars ($50) for each branch office maintained by the talent agency in this state

SEC 13 Section 1700 13 of the Labor Code is amended to read.

1700 13 A filing fee of twenty-five dollars ($25) shall be paid to the Labor Commissioner at the time application for consent to the transfer or assignment of a talent agency license is made but no license fee shall be required upon the assignment or transfer of a license

The location of a talent agency shall not be changed without the written consent of the Labor Commissioner

SEC 14. Section 1700.15 of the Labor Code is amended to read:

1700 15 A talent agency shall also deposit with the Labor Commissioner, prior to the issuance or renewal of a license, a surety bond in the penal sum of one thousand dollars ($1,000).

SEC. 15 Section 1700 16 of the Labor Code is amended to read:

1700.16 Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with this chapter and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit, or any unlawful acts or omissions of the licensed talent agency, or its agents or employees, while acting within the scope of their employment

SEC 16 Section 1700.17 of the Labor Code is amended to read:

1700 17 If any licensee fails to file a new bond with the Labor Commissioner within 30 days after notice of cancellation by the surety of the bond required under Section 1700.15, the license issued to the principal under the bond is suspended until such time as a new surety bond is filed A person whose license is suspended pursuant to this section shall not carry on the business of a talent agency during the period of such suspension.

SEC 17 Section 1700 19 of the Labor Code is amended to read:

1700 19 Each license shall contain.

(a) The name of the licensee.

(b) A designation of the city, street and number of the house in which the licensee is authorized to carry on the business of a talent agency

(c) The number and date of issuance of the license.

SEC 18 Section 1700.20a of the Labor Code is amended to read·

1700 20a. The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of a talent agency where the person licensed to conduct such talent agency business has died, or has been declared incompetent by the judgment of a court of competent jurisdiction, or has had a conservator appointed for his estate by a court of competent jurisdiction Such a certificate of convenience may be denominated

an estate certificate of convenience.

SEC. 19 Section 1700.20b of the Labor Code is amended to read:

1700.20b. To be eligible for a certificate of convenience, a person shall be either:

(a) The executor or administrator of the estate of a deceased person licensed to conduct the business of a talent agency.

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased licensee.

(c) The guardian of the estate of an incompetent person licensed as a talent agency, or the conservator appointed for the conservation of the estate of a person licensed to conduct the business of a talent agency

Such estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending the disposal of the talent agency license or the procurement of a new license under the provisions of this chapter.

SEC. 20. Section 1700.23 of the Labor Code is amended to read:

1700 23. Every talent agency shall submit to the Labor Commissioner a form or forms of contract to be utilized by such talent agency in entering into written contracts with artists for the employment of the services of such talent agency by such artists, and secure the approval of the Labor Commissioner thereof. Such approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust and oppressive to the artist. Each such form of contract, except under the conditions specified in Section 1700.45, shall contain an agreement by the talent agency to refer any controversy between the artist and the talent agency relating to the terms of the contract to the Labor Commissioner for adjustment. There shall be printed on the face of the contract in prominent type the following: "This talent agency is licensed by the Labor Commissioner of the State of California."

SEC. 21. Section 1700.24 of the Labor Code is amended to read:

1700.24. Every person engaged in the occupation of a talent agency shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of such occupation, and shall also keep a copy of such schedule posted in a conspicuous place in the office of such talent agency. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner and until posted for not less than seven days in a conspicuous place in the office of such talent agency.

SEC. 22. Section 1700.25 of the Labor Code is amended to read:

1700.25. Before making any theatrical engagement, other than an emergency engagement, every person doing business as a talent agency, shall prepare, sign, and keep in his files a verified statement setting forth how long the applicant employer has been engaged in the theatrical business. Such statement shall set forth whether or not

the applicant employer has failed to pay salaries or left stranded any companies, in which the applicant employer and, if a corporation, any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If the applicant is a corporation, the statement shall set forth the names of the officers and directors thereof and the length of time the corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in the statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. The statement shall be kept for the benefit of any person whose services are sought by any such applicant employer.

SEC. 23 Section 1700.26 of the Labor Code is amended to read:

1700 26. Every talent agency shall keep records approved by the Labor Commissioner, in which shall be entered: (1) the name and address of each artist employing such talent agency: (2) the amount of fee received from such artist; (3) the employment in which such artist is engaged at the time of employing such talent agency, and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the talent agency, and the amount of compensation received by the artists pursuant thereto; and (4) other information which the Labor Commissioner requires.

No talent agency, its agent or employees, shall make any false entry in any such records.

SEC. 24 Section 1700 27 of the Labor Code is amended to read:

1700 27. All books, records, and other papers kept pursuant to this chapter by any talent agency shall be open at all reasonable hours to the inspection of the Labor Commissioner and his agents. Every talent agency shall furnish to the Labor Commissioner upon request a true copy of such books, records, and papers or any portion thereof, and shall make such reports as the Labor Commissioner prescribes.

SEC. 25. Section 1700.28 of the Labor Code is amended to read:

1700 28. Every talent agency shall post in a conspicuous place in the office of such talent agency a printed copy of this chapter and of such other statutes as may be specified by the Labor Commissioner. Such copies shall also contain the name and address of the officer charged with the enforcement of this chapter. The Labor Commissioner shall furnish to talent agencies printed copies of any statute required to be posted under the provisions of this section

SEC. 26 Section 1700.30 of the Labor Code is amended to read:

1700.30. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of the talent agency without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor

more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

SEC. 27. Section 1700.31 of the Labor Code is amended to read:

1700.31. No talent agency shall knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

SEC. 28 Section 1700.32 of the Labor Code is amended to read:

1700.32. No talent agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement All advertisements of a talent agency by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the licensed name and address of the talent agency and the words "talent agency." No talent agency shall give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

SEC. 29 Section 1700.33 of the Labor Code is amended to read.

1700 33. No talent agency shall send or cause to be sent, any woman or minor as an employee to any house of ill fame, to any house or place of amusement for immoral purpose, to places resorted to for the purposes of prostitution, the character of which places the talent agency could have ascertained upon reasonable inquiry.

SEC. 30 Section 1700.34 of the Labor Code is amended to read:

1700 34. No talent agency shall send any minor to any saloon or place where intoxicating liquors are sold to be consumed on the premises.

SEC. 31. Section 1700.35 of the Labor Code is amended to read:

1700.35. No talent agency shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons, or procurers to frequent, or be employed in, the place of business of the talent agency.

SEC 32. Section 1700.36 of the Labor Code is amended to read:

1700 36. No talent agency shall accept any application for employment made by or on behalf of any minor, as defined by subdivision (c) of Section 1286, or shall place or assist in placing any such minor in any employment whatever in violation of Part 4 (commencing with Section 1171) of this division.

SEC. 33. Section 1700.37 of the Labor Code is amended to read:

1700.37. A minor cannot disaffirm a contract, otherwise valid, entered into during minority, either during the actual minority of the minor entering into such contract or at any time thereafter, with a duly licensed talent agency as defined in Section 1700.4 to secure him engagements to render artistic or creative services in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field including, but without being limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or

entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor or designer, the blank form of which has been approved by the Labor Commissioner pursuant to Section 1700.23, where such contract has been approved by the superior court of the county where such minor resides or is employed.

Such approval may be given by the superior court on the petition of either party to the contract after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard.

SEC. 34. Section 1700.38 of the Labor Code is amended to read:

1700.38. No talent agency shall knowingly secure employment for an artist in any place where a strike, lockout, or other labor trouble exists, without notifying the artist of such conditions.

SEC. 35. Section 1700 39 of the Labor Code is amended to read:

1700 39. No talent agency shall divide fees with an employer, an agent or other employee of an employer.

SEC. 36. Section 1700.40 of the Labor Code is amended to read:

1700.40 In the event that a talent agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure such employment, or the artist shall fail to be paid for such employment, such talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee.

SEC. 37 Section 1700.41 of the Labor Code is amended to read:

1700 41. In cases where an artist is sent by a talent agency beyond the limits of the city in which the office of such talent agency is located upon the representation of such talent agency that employment of a particular type will there be available for the artist and the artist does not find such employment available, such talent agency shall reimburse the artist for any actual expenses incurred in going to and returning from the place where the artist has been so sent unless the artist has been otherwise so reimbursed.

SEC 38 Section 1700.43 of the Labor Code is amended to read.

1700.43. When a licensee has departed from the state with intent to defraud creditors or to avoid service of summons in an action brought under this chapter, service shall be made upon the surety as prescribed in the Code of Civil Procedure. A copy of the summons shall be mailed to the licensee at the last known post office address of his residence and also at the place where the business of the talent agency was conducted as shown by the records of the Labor Commissioner Service is complete as to such licensee, after mailing, at the expiration of the time prescribed by the Code of Civil Procedure for service of summons in the particular court in which suit is brought

SEC 39. Section 1700 45 of the Labor Code is amended to read:

1700 45 Notwithstanding Section 1700 44, a provision in a

contract providing for the decision by arbitration of any controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid:

(a) If the provision is contained in a contract between a talent agency and a person for whom such talent agency under the contract undertakes to endeavor to secure employment,

(b) If the provision is inserted in the contract pursuant to any rule, regulation, or contract of a bona fide labor union regulating the relations of its members to a talent agency,

(c) If the contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings, and

(d) If the contract provides that the Labor Commissioner or his authorized representative has the right to attend all arbitration hearings.

Except as otherwise provided in this section, any such arbitration shall be governed by the provisions of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

If there is such an arbitration provision in such a contract, the contract need not provide that the talent agency agrees to refer any controversy between the applicant and the talent agency regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1700.44 shall not apply to controversies pertaining to the contract.

A provision in a contract providing for the decision by arbitration of any controversy arising under this chapter which does not meet the requirements of this section is not made valid by Section 1281 of the Code of Civil Procedure.

SEC. 40. Section 1700.47 is added to the Labor Code, to read:

1700.47. Any persons who held an unrevoked or unsuspended license as a musician booking agency 90 days prior to the effective date of the repeal of the musician booking agency license law may apply for and be issued a talent agency license for the remaining term of such license without examination or fee. Any musician booking agency application pending 90 days prior to the effective date of such repeal shall be reprocessed as a talent agency application upon written request of the applicant. Any fee on file will be applied to the talent agency application; the application shall meet all other requirements, including investigation, for a talent agency license before a talent agency license may be issued.

SEC. 41. It is the intent of the Legislature that those individuals and organizations previously licensed as musician booking agencies shall henceforth be licensed as talent agencies.

CHAPTER 1383

An act to amend Section 6006 3 of the Revenue and Taxation Code, relating to sales and use taxes, to take effect immediately, tax levy.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 6006.3 of the Revenue and Taxation Code is amended to read

6006 3. "Lease" includes rental, hire and license. "Lease" does not include a use of tangible personal property for a period of less than one day for a charge of less than twenty dollars ($20) when the privilege to use the property is restricted to use thereof on the premises or at a business location of the grantor of the privilege.

SEC 2 There are no state-mandated local costs in this act that require reimbursement under Section 2230 of the Revenue and Taxation Code because there are no new duties, obligations or responsibilities imposed on local government by this act.

SEC 3 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 25 days after the effective date of this act

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CHAPTER 1384

An act to amend Section 2019 of the Code of Civil Procedure, relating to depositions upon oral examination.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 2019 of the Code of Civil Procedure is amended to read

2019 (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the

notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an

action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the demand. A subpoena shall advise a non-party organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the couny of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or informtion enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on

10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit said action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that the party furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section If the order made terminates the examination, it shall be resumed

thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 of this code the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition that the witness was duly sworn by such officer and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the court may order that the deposition be filed as part of the record

(2) The officer taking the deposition shall give prompt notice of the availability of the deposition to all other parties.

(3) The officer taking the deposition shall keep the deposition for

six months following the final disposition of the case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

CHAPTER 1385

An act to add and repeal Section 936.1 to the Code of Civil Procedure, to add and repeal Section 1240.1 to the Penal Code, and to amend and repeal Section 800 of the Welfare and Institutions Code, relating to indigent appeals.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 936.1 is added to the Code of Civil Procedure, to read·

936.1. An appeal from any judgment or order in any civil commitment or other proceeding wherein the appellant would be entitled to the appointment of counsel on appeal if indigent shall be initiated by the filing of a notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code

SEC. 2. Section 1240.1 is added to the Penal Code, to read:

1240.1. (a) In any criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he is not able to provide advice concerning his own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue

regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify that he has counselled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his client's behalf a timely notice of appeal when such attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue such relief as may be available to him on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present such points on appeal when such document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of such notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless such undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of such trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon such motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him that the attorney has failed to do so, or at any time he shall become indigent if he was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself, provide counsel and advice to such prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to (1) perform any duty prescribed in this section, (2) assign any particular point or error in the notice of appeal, or (3) designate any particular thing for

inclusion in the record on appeal shall not foreclose any defendant from filing a notice of appeal on his own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

SEC 3 Section 800 of the Welfare and Institutions Code is amended to read·

800 A judgment or decree of a juvenile court or final order of a referee which becomes effective without approval of a judge of the juvenile court assuming jurisdiction and declaring any person to be a person described in Section 601 or 602, or on denying a motion made pursuant to Section 567, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care, and custody of such person pending the appeal, and unless such provision is approved by an order of the juvenile court. Such appeal shall have precedence over all other cases in the court to which the appeal is taken.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

All appeals shall be initiated by the filing of a notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code

SEC 3.5 This act shall remain in effect only until January 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1981, deletes or extends such date.

SEC 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1386

An act to amend Sections 10000, 10008, 10125, 10575, 10575.1, and 10675 of, and to add Sections 10001.1, 10125 5, 10126, 10127, 10128, 10129, 10130, 10130.5, and 10131 to, the Health and Safety Code, relating to vital statistics, and making an appropriation therefor.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 10000 of the Health and Safety Code is amended to read:

10000 Each live birth, fetal death, death, and marriage which

occurs in the state shall be registered as provided in this division on the prescribed certificate forms. In addition, a report of every final dissolution, legal separation, or nullity decree shall be filed with the State Registrar, as provided in this division All confidential information included in birth, fetal death, death, and marriage certificates and reports of dissolution of marriage, legal separation, or nullity which are required to be filed by this division, shall be exempt from the provision of the California Public Records Act contained in Chapter 3 5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 1 5. Section 10001.1 is added to the Health and Safety Code, to read:

10001 1. The State Registrar shall adopt regulations specifying the following:

(a) Procedures to assure the confidentiality of the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 10125, and the medical and health report, specified in Section 10126; and

(b) Procedures regarding access to records required by this division

SEC 1 7 Section 10008 of the Health and Safety Code is amended to read.

10008. When objection is made by either parent to the furnishing of information requested in items (3) and (9) in the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 10125, such information shall not be required to be entered on such portion of the certificate of live birth

SEC 2 Section 10125 of the Health and Safety Code is amended to read.

10125 (a) The certificate of live birth for any live birth occurring on or after January 1, 1980, shall contain those items necessary to establish the fact of the birth and shall contain only the following information.

(1) Full name and sex of child;

(2) Date of birth, including month, day, hour, and year;

(3) Place of birth;

(4) Full name of father, birthplace, and age of father;

(5) Full birth name of mother, birthplace, and age of mother;

(6) Multiple births and birth order of multiple births,

(7) Signature, and relationship to child, of a parent or other informant, and date signed;

(8) Name, degree or title, address, signature, and certification of live birth by attending physician or principal attendant;

(9) Date accepted for registration and signature of local registrar;

(10) A state birth certificate number and local registration district and number, and

(11) A blank space for entry of date of death with a caption reading "Date of Death."

(b) In addition to the items listed in subdivision (a), the

certificate of live birth shall contain the following medical and social information, provided that such information is kept confidential pursuant to the provisions of Section 10125.5 and is clearly labeled "Confidential Information for Public Health Use Only":

(1) Birth weight;

(2) Pregnancy history;

(3) Race and ethnicity of mother and father;

(4) Residence address of mother;

(5) A blank space for entry of census tract for mother's address;

(6) Month prenatal care began;

(7) Date of last normal menses; and

(8) Description of complications of pregnancy and concurrent illnesses, birth injury to child, congenital malformation, and any complication of labor and delivery, including surgery; provided that such information is essential medical information and appears in total on the face of the certificate.

(9) Mother's and father's occupations and kind of business or industry.

(c) Item 8, specified in subdivision (b), shall be completed by the attending physician or such person's designated representative. The names and addresses of children born with congenital malformations, who require followup treatment, as determined by such child's physician, shall be furnished by such physician to the local health officer, if permission is granted by either parent of the child.

(d) The parent shall only be asked to sign the form after both the public portion and the confidential medical and social information items have been entered upon the certificate of live birth.

(e) On January 1, 1979, the State Registrar shall instruct all local registrars to collect the information specified in this section with respect to certificates of live birth. Such information shall be transcribed on the certificate of live birth in use at such time and shall be limited to the information specified in this section.

Information relating to concurrent illnesses, complications of pregnancy and delivery, birth injury to child, and congenital malformations shall be completed by the physician, or physician's designee, inserting in the space provided on the confidential portion of the certificate the appropriate number or numbers listed on the VS-10A supplemental worksheet. The VS-10A supplemental form shall be used as a worksheet only and shall not in any manner be linked with the identity of the child or the mother, nor submitted with the certificate to the State Registrar. All information transferred from the worksheet to the certificate shall be fully explained to the mother prior to her signing the certificate. No questions relating to drug or alcohol abuse may be asked.

SEC 2.5. Section 10125 5 is added to the Health and Safety Code, to read

10125 5 (a) The second section of the certificate of live birth as specified in subdivision (b) of Section 10125 shall be confidential.

Access to such portion of any certificate of live birth shall be limited to the following:

(1) State Department of Health Services staff;

(2) Local registrar's staff and local health department staff when approved by the local registrar or local health officer, respectively;

(3) Persons with a valid scientific interest as determined by the State Registrar, who are engaged in demographic, epidemiological or other similar studies related to health, and who agree to maintain confidentiality as prescribed by this division and by regulation of the State Registrar,

(4) The parent who signed the certificate; and

(5) The person named on the certificate.

(6) Any person who has petitioned to adopt the person named on the certificate, subject to the provisions of Section 10439 of the Health and Safety Code and Section 227 of the Civil Code.

(b) The State Department of Health Services shall maintain an accurate record of all persons who are given access to the confidential portion of the certificate. Such record shall include: the name of the person authorizing access; name, title, and organizational affiliation of persons given access; dates of access; and specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the State Department of Health Services.

(c) All research proposed to be conducted using the confidential medical and social information on the birth certificate shall first be reviewed by the appropriate committee constituted for the protection of human subjects which is approved by the federal Department of Health, Education, and Welfare and has a general assurance pursuant to Part 46 of Title 45 of the Code of Federal Regulations No information shall be released until the request for information has been reviewed by the Vital Statistics Advisory Committee and such committee has recommended to the State Registrar that such information shall be released.

SEC 3. Section 10126 is added to the Health and Safety Code, to read

10126. After public hearing and consultation with the Vital Statistics Advisory Committee, the State Registrar shall adopt regulations specifying the contents of a medical and health report and shall supply the necessary forms to hospitals and local registrars. The contents of the report shall be limited to the medical, health, or social data necessary to evaluate or improve maternal and child health, as determined by the State Registrar.

The State Registrar shall make a finding that the specific items of information included in the report are not available from other sources at a comparable cost and that sufficient resources and a research design are available to analyze the data collected.

SEC 4 Section 10127 is added to the Health and Safety Code, to read

10127. (a) For each registration of live birth submitted to the

local registrar pursuant to Section 10100, the hospital administrator, or such person's representative, shall submit a completed medical and health report which meets the requirements of Section 10126. For live births which occur outside of a hospital, such medical and health report shall be completed and submitted by the local registrar when the local registrar receives the certificate of live birth for registration from the person designated in Section 10102.

(b) The medical and health report shall be submitted to the State Registrar by the local registrar for filing. Such report shall not be kept on file in the offices of the local registrars.

SEC. 5. Section 10128 is added to the Health and Safety Code, to read:

10128. (a) The medical and health report required pursuant to Section 10126 shall be clearly labeled "Confidential Information for Public Health Use Only." The parent or informant shall be informed of the purposes for collecting the information, its confidential nature, and that completing the specific items is voluntary.

(b) When objection is made by either parent to the furnishing of information requested in a specific item or items in the medical and health report such information shall not be entered.

(c) The mother, father or child shall not be identified by name or any other means in the medical and health report.

SEC. 6. Section 10129 is added to the Health and Safety Code, to read:

10129. With the exception of statistical tabulation purposes, the medical and health report shall be kept confidential and access to such report shall be limited to the following persons:

(a) State and local registrar's staff.

(b) State and local health department staff.

(c) Persons with a valid educational or scientific interest, as determined by the State Registrar, who are engaged in demographic and epidemiological studies for health purposes.

The State Department of Health Services shall maintain an accurate record of all persons who are given access to the report. Such record shall include: the name of the persons authorizing access; name, title, and organizational affiliation of persons given access; dates of access; and specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the State Department of Health Services.

SEC. 7. Section 10130 is added to the Health and Safety Code, to read.

10130. (a) The State Registrar shall appoint a Vital Statistics Advisory Committee which shall have the following duties:

(1) Review and make recommendations to the State Registrar as to the adequacy of procedures to assure accuracy and confidentiality of personal health and medical information;

(2) Review the findings of the committee for the protection of human subjects pursuant to subdivision (c) of Section 10125.5 and

make recommendations to the State Registrar regarding all requests for studies which propose to use confidential information with respect to whether a legitimate scientific interest is presented and whether the significance of the project justifies use of the confidential information;

(3) Assure that all research conducted using the data from birth certificates is consistent with guidelines provided by an appropriately constituted committee for the protection of human subjects of the department, as specified in subdivision (c) of Section 10125 5;

(4) Review and make recommendations to the State Registrar as to proposals for addition or deletion of items on the certificate of live birth and advise the State Registrar on the content and format of the certificate; and

(5) Take testimony and make recommendations to the State Registrar regarding changes in the birth registration system.

(b) The Vital Statistics Advisory Committee shall include representatives from the users, providers, and informant groups who are involved in the process of the provision and collection of information for and the use of the certificate of live birth, and shall include the chairpersons of the Assembly Health Committee and the Senate Health and Welfare Committee or their designated representative, and shall have a majority of lay persons in its composition. The State Registrar shall make every effort to ensure that committee membership is representative of the community at large. Consideration shall be given to providing access to relevant classes of persons including, but not limited to, women, men, racial and ethnic minorities, in proportion to their representation in the affected population.

Membership on the committee shall be for a term of three years, appointments to be made on a staggered basis to allow for one-third membership to change annually.

SEC. 8. Section 10130.5 is added to the Health and Safety Code, to read

10130.5. The State Registrar shall publish within 30 days of receipt of recommendations by the Vital Statistics Advisory Committee, made pursuant to Section 10130, (1) a list of the recommendations adopted, and (2) a list of the recommendations not adopted, with reasons for such action.

SEC. 9 Section 10131 is added to the Health and Safety Code, to read:

10131. (a) Any person who releases a copy of the confidential portion of the certificate of live birth, except as specifically provided by this division, shall be guilty of a misdemeanor, punishable by a fine of five hundred dollars ($500) or six months in jail. Such criminal penalty shall not preclude suit for civil or punitive damages by any individuals harmed by such unauthorized release.

(b) Any person who is the subject of, or the source of information for, a birth certificate, who has reason to believe there has been

linkage of confidential information with his or her identity and disclosure of such confidential information to a person not specified in subdivision (a) of Section 10125.5, shall have a civil right of action against the person releasing such information and may seek punitive damages.

SEC. 10. Section 10575 of the Health and Safety Code is amended to read:

10575. The State Registrar, local registrar or county recorder shall, upon request and payment of the required fee, supply to any applicant a certified copy of the record of any birth, fetal death, death, marriage, or marriage dissolution registered with such official.

When the original forms of certificates of live birth furnished by the State Registrar contain a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in a certified copy of the record except as specifically authorized in Section 10125.5.

SEC. 11. Section 10575.1 of the Health and Safety Code is amended to read:

10575.1. Certified copies of certificates of births shall be issued only when the applicant for the certified copy is able to furnish information, exclusive of file numbers, adequate for identification and location of the amended record.

SEC. 12. Section 10675 of the Health and Safety Code is amended to read:

10675. Every person, except a parent informant for a certificate of live birth, who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession which is required by this division, or furnishes false information affecting any certificate or record required by this division, is guilty of a misdemeanor.

SEC. 13. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

SEC. 14. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purposes of this act.

CHAPTER 1387

An act to amend Section 14103.4 of, and to add and repeal Section 14103.5 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 14103.4 of the Welfare and Institutions Code is amended to read:

14103.4 The director, with the advice of the Advisory Health Committee, shall determine which of the health care and related remedial or preventive services are elective. The director and the Advisory Health Committee shall consult with representatives of providers of such services before making a determination.

SEC 2. Section 14103.5 is added to the Welfare and Institutions Code, to read:

14103.5. No determination made pursuant to Section 14103.4 shall be based upon any distinction as to whether any service or group of services is rendered by a physician or doctor of podiatric medicine.

This section shall remain in effect only until January 1, 1981, and on such date is repealed.

CHAPTER 1388

An act to amend Sections 408 and 13402, to amend the heading of Chapter 7 (commencing with Section 14051) of Part 8 of Division 2 of, to add an article heading immediately to precede Section 14051 of, to add Article 2 (commencing with Section 14071) to Chapter 7 of Part 8 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Section 408 of the Revenue and Taxation Code is amended to read·

408. (a) Except as otherwise provided in subdivisions (b) and (c) any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the

homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his possession to the assessor of any county and shall provide any market data in his possession to an assessee of property or his designated representative upon request. The assessor shall permit an assessee of property or his designated representative to inspect at the asessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his property. Except as provided in Section 408.1, an assessee or his designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless such disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his assessment.

(c) The assessor shall disclose information, furnish abstracts or permit access to all records in his office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the State Controller, inheritance tax referees, the State Board of Equalization and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his assessment of the assessee's property, in whole or in part, on such comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of such property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing such market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 2. Section 13402 of the Revenue and Taxation Code is amended to read:

13402. The tax imposed by this part shall be the amount equal to the excess of a tentative tax computed upon the sum of the clear market value of the property transferred, but only upon that portion in excess of the exemptions allowable on the date of the transferor's death, and at the rates which are then in effect, and the total amount of the net gifts (within the meaning of Section 15118) made by the decedent during lifetime and after December 31, 1976, other than gifts which are subject to this part, over the aggregate amount of the

tax payable under Part 9 (commencing with Section 15101) of this division with respect to gifts made by the decedent after such date.

SEC. 3. The heading of Chapter 7 (commencing with Section 14051) of Part 8 of Division 2 of the Revenue and Taxation Code is amended to read

CHAPTER 7. PREVIOUSLY TAXED PROPERTY CREDIT AND GIFT TAX CREDIT

SEC 4 An article heading is added to the Revenue and Taxation Code, immediately to precede Section 14051, to read:

Article 1. Previously Taxed Property Credit

SEC 5. Article 2 (commencing with Section 14071) is added to Chapter 7 of Part 8 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. Gift Tax Credit

14071 "Inheritance tax," as used in this chapter, means the tax imposed by Article 1 of Chapter 2 of this part.

14072 "Gift tax," as used in this chapter, means the tax imposed by Part 9 (commencing with Section 15101) of this division.

14073 "Includable gift," as used in this chapter, means any gift made prior to December 31, 1976, before the allowance of any exemption other than the intangibles or charitable exemptions, as defined in Part 9 of this division, constituting a transfer which was subject to the gift tax and, at the death of the donor, is also subject to the inheritance tax.

14074. "Net includable gift," as used in this chapter, means the value of the includable gift at the date of gift or the date of the donor's death, whichever is lower.

14075. "Gross value of property transferred to the donee," as used in this chapter, means the value of all property transferred within the meaning of this part to the donee from the donor, after allowing for the deductions and before allowing for the exemptions permitted by this part

14076. "Gift tax paid on the includable gift," as used in this chapter, means the amount which bears the same proportion to the entire gift tax paid on all gifts made by the donor to the donee in the year in which the includable gift was made as the amount of the includable gift bears to the total amount of all gifts made by the donor to the donee in the year that the includable gift was made.

14077. The inheritance tax payable on an includable gift made prior to December 31, 1976, shall be reduced by a gift tax credit equal to the gift tax paid on the includable gift. However, the credit shall not exceed an amount which bears the same proportion to the total inheritance tax imposed by this part on transfers to the donee from

the donor as the net includable gift bears to the gross value of the property transferred

SEC. 6. The assessor may charge and collect the fee prescribed in Section 162 of the Revenue and Taxation Code for the furnishing of abstracts to inheritance tax referees required by this act.

SEC 7 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because revenue is provided in Section 162 of the Revenue and Taxation Code to cover such costs.

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

The amendments to Section 13402 of the Revenue and Taxation Code enacted by Chapter 1079, Statutes of 1977, are being interpreted by the State Controller's Office to require taking into consideration, for the purpose of fixing inheritance taxes, all gifts of the decedent occurring since the effective date of the California Gift Tax Law in 1939. It was the stated intent of the Legislature in enacting Chapter 1079 "to conform provisions of California law, where appropriate, to the changes contained in the Federal Tax Reform Act of 1977 [P.L. 94-455]," which, with respect to similar provisions for a unified rate schedule for estate and gift taxes, operates prospectively only and includes only those gifts made after December 31, 1976 To make certain the intent of the Legislature that such amendments to Section 13402 apply only to gifts made after the effective date of Chapter 1079, so as to avoid hardship on persons who have relied on prior law, it is necessary that this act take effect immediately.

CHAPTER 1389

An act to add Section 429 63 to the Health and Safety Code, relating to health care for the aging.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 429 63 is added to the Health and Safety Code, to read

429 63. The State Department of Health Services shall provide staff and budgetary support for planning, evaluation, education, research design, funding, and medical leadership for health promotion and preventive health services for older adults.

For purposes of this section, "older adults" means persons 55 years

of age or older.

CHAPTER 1390

An act to add and repeal Chapter 5.3 (commencing with Section 18305) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to family stress, and making an appropriation therefor.

[Approved by Governor September 30, 1978. Filed with Secretary of State September 30, 1978.]

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

SECTION 1. Chapter 5.3 (commencing with Section 18305) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.3. FAMILY STRESS PILOT PROJECT CENTER

18305. The Legislature hereby finds and declares that there is a present and growing need to develop innovative strategies and services which will ameliorate and reduce the trauma of family stress by providing coordinated counseling and crisis intervention services with regard to manifestations of family stress, especially child abuse. Family stress occurs in all socioeconomic classes and ethnic groups, but it is the poor who suffer most, since they have no immediate access to private counseling.

It is the intention of the Legislature to begin to explore and determine ways of aiding in the resolution of family stress and to begin to clarify the problems, causes, and cures of family stress. In order to achieve these results, it is the intention of the Legislature that the state shall initiate a demonstration project for the purpose of aiding families encountering stress by providing prevention, intervention, and long-term treatment services. It is further the intent of the Legislature that the project shall receive sufficient state funds to serve as seed money or matching money to assist the center in obtaining further support from other public or private sources.

18305.3. This chapter shall be implemented during the period from January 1, 1979, through June 30, 1982. The State Department of Social Services shall choose the project to be funded no later than April 1, 1979, from those who apply and are determined eligible for participation.

18305.5. The Director of Social Services, in consultation with individuals and groups with experience and knowledge of the problems of family stress, shall contract with a private nonprofit organization in an urban California county to establish a project center for families encountering stress.

18305.7. In order to be eligible for funding pursuant to this

chapter, the center shall demonstrate its ability to secure and make use of funds from local or federal government, and from voluntary sources which may be used to augment any state funds appropriated for the purposes of this chapter. The county shall provide all capital outlay and the operations budget shall be procured through state, local, and voluntary funding. The center shall make every attempt to qualify itself for any available federal funding.

18306. The center shall be designed to provide at least the following basic services:

(a) Counseling aiding in the growth of coping patterns dealing with the frustrations of child rearing;

(b) Psychological support and peer counseling for parents;

(c) References to existing services in the community and followup on the outcome of the referrals; and

(d) A 24-hour a day, seven days a week switchboard for crisis calls.

(e) Respite day care for children of families in crisis.

18306.3. The staff of the center shall work with and help coordinate the activities of social service agencies, schools, and law enforcement agencies in an advisory capacity in order to aid those served by the center.

18306 5 The center shall maintain such fiscal reports as prescribed by the State Department of Social Services, including an annual report. The center shall maintain quarterly and final fiscal reports in a form to be prescribed by the State Department of Social Services.

18307 The Department of Social Services shall ensure that a proper and reasonable evaluation of the family stress pilot project is carried out, which assesses the extent to which the project implements the requirements of this chapter and which determines the effectiveness of the project in aiding in the resolution of family stress and to clarify the problems, causes, and cures of family stress. Such evaluation shall include a determination of the number of families and persons served by the project, and appropriate socioeconomic description of these families and persons, a description of the types of family stress problems for which services are sought, the types of services provided in response to the problems and the degree of effectiveness of these services in reducing family stress. The evaluation shall identify and describe the range and type of services being provided by existing agencies within the area served by the project center which are comparable to the services provided by the center The evaluation shall assess the extent to which a family stress center can coordinate services to families thereby reducing fragmentation and duplication The evaluation shall describe the extent to which comparable services provided by existing agencies can serve as resources to the project center and shall also identify which existing agency, if any, would be suitable for permanently locating a family stress center if such a program were to be continued. The Department of Social Services shall submit annual reports to the Legislature which summarize the

progress of the pilot project and which report the results of evaluations concluded during the year covered by the report.

The annual reports shall serve as the bases of a report to be submitted by the State Department of Social Services to the Legislature on or before January 1, 1982. This report shall summarize the reports submitted by the center, after validating the data included in such reports, and shall make recommendations regarding the extent to which the center assisted families in resolving the problems associated with family stress, the need for additional legislation, funding, data collection, and any other actions which can be taken by the state to prevent, reduce, or alleviate the effects of family stress.

SEC. 2. The sum of forty-five thousand dollars ($45,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of Chapter 5 (commencing with Section 18305) of Part 6 of Division 9 of the Welfare and Institutions Code.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section made by this act because this act is in accordance with the request of a local government entity.

SEC. 4. This act shall remain in effect only until June 30, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1982, deletes or extends such date.

CHAPTER 1391

An act to add Section 300.5 to the Health and Safety Code, relating to maternal and child health, and making an appropriation therefor.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. The Legislature finds and declares that excessive exposure to environmental lead is detrimental to the physical and mental health and development of children. The Legislature further finds and declares that a program of projects designed to identify and prevent disease and disabilities in children caused by lead would improve the health of children. Further, the Legislature finds and declares that an information program designed to alert the public and providers of health services to children concerning the hazards of environmental lead would allow the public to act in its own interest in avoiding such hazards and seek and find informed medical care, if such is needed.

SEC. 2. Section 300.5 is added to the Health and Safety Code, to read:

300.5. As a part of the program of maternal and child health, the State Department of Health Services shall develop a program to prevent and identify disabilities and debilitating diseases caused by lead poisoning, for purposes of reducing infant mortality and improving the health of mothers and children.

The program shall include, but not be limited to, the provision of public education and information, the provision of grants to, and contracts with, county health departments for screening, diagnosing, and providing appropriate treatment to children with excessive lead burdens, and for assisting families in reducing environmental exposure of children to lead in and around residences, and a program of public and provider information designed to alert the public to the risks of environmental lead and methods of lessening such risks and to inform providers of health services to children of the latest developmental and physical health implications of excessive lead burden in children.

The State Department of Health Services may, in appropriate health service programs, require that a sample of children be screened for lead burden in order to determine if a full scale effort in such programs is warranted

The state department shall submit an evaluation of the program to the Legislature on or before January 1, 1981, and annually thereafter.

SEC 3 The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purpose of implementing the provisions of Section 300.5 of the Health and Safety Code.

CHAPTER 1392

An act to amend Section 602 of the Penal Code, relating to trespass.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 602 of the Penal Code is amended to read:

602 Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another

(b) Carrying away any kind of wood or timber lying on such lands.

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone

(e) Digging, taking, or carrying away from land in any city or

town laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering such lands, without first having obtained written permission from the owner of such lands or his agent, or the person in lawful possession thereof.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands without the written permission of the owner of such land, his agent or of the person in

lawful possession, and

(1) Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on such lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into such lands, or

(4) Discharging any firearm

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, his agent, or the person in lawful possession thereof

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, his agent, or the person in lawful possession thereof

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer and the owner, his agent, or the person in lawful possession thereof, or (2) the owner, his agent, or the person in lawful possession thereof, provided, however, that clause (2) of this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code; provided, such closed areas shall have been posted with notices declaring such closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through such lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that such person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating such closure.

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

significant identifiable cost changes.

CHAPTER 1393

An act to amend Section 5651 of, to add Section 5624 to, to add a chapter heading immediately following the heading of Part 1 (commencing with Section 4000) of Division 4 of, and to add Chapter 2 (commencing with Section 4030) to Part 1 of Division 4 of, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1978. Filed with Secretary of State September 30, 1978]

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

SECTION 1 A chapter heading is added to Part 1, Division 4 of the Welfare and Institutions Code immediately preceding Section 4000, to read.

CHAPTER 1. GENERAL

SEC. 2. Chapter 2 (commencing with Section 4030) is added to Part 1, Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 2. PLANNING, RESEARCH, EVALUATION AND QUALITY ASSURANCE

Article 1. Planning, Research, Evaluation, and Quality Assurance

4030. The Director of the State Department of Mental Health shall organize appropriate staff of the department to assure implementation of the planning, research, evaluation, and quality assurance responsibilities set forth in this chapter.

4031. The State Department of Mental Health shall:

(a) Conduct, sponsor, coordinate, and disseminate policy related research and evaluation.

(b) Make available technical assistance on research, evaluation, and quality assurance to local mental health programs.

(c) Implement a system of required reviews of local mental health programs.

(d) Develop standards for local quality assurance activities and ensure compliance of quality assurance systems with these standards.

(e) Perform any other activities useful to improving and maintaining the quality of state mental hospital and community mental health programs.

4032. The department shall, when appropriate, give and receive grants and contracts for research, evaluation, and quality assurance efforts.

Article 2. Research and Evaluation

4040. The State Department of Mental Health shall conduct, or contract for, clinical research or evaluation studies which have application to policy and management issues. In selecting areas for study the department shall be guided by the information needs of state and local policymakers and managers.

4041 The department shall serve as a clearinghouse for information on research and evaluation studies relevant to mental health. The department shall review and disseminate the results of local, state, and national research and evaluation studies that have important implications for mental health policy or management.

4042. The department shall cooperate and coordinate with other state and local agencies engaged in research and evaluation studies. Effort shall be made to coordinate with research, evaluation, and demonstration efforts of local mental health programs, state hospitals serving the mentally disordered, the State Department of Developmental Services, the State Department of Health Services, universities, and other special projects conducted or contracted for by the State Department of Mental Health.

Article 3 Technical Assistance

4050 The State Department of Mental Health shall make available technical assistance, through its own staff, or by contract, to county mental health programs and other local mental health agencies in the planning and implementation of research, evaluation, demonstration, or quality assurance projects.

Article 4. Program Reviews

4060. The State Department of Mental Health shall conduct, or contract for, an onsite professional peer review of each county mental health program by January 1, 1981. The purpose of such reviews is to provide information on the strengths and deficiencies in local program services and administration that is useful for program improvement. The reviews shall be approached flexibly and developmentally so that peer review standards and procedures gain wide acceptance among program directors and staff and are appropriate to the varying sizes and types of local mental health programs.

4061. The counties shall be allowed to recommend the reviewing agency that will conduct their program review.

4062. Reviews conducted by the department shall be in accord with the following guidelines.

(a) A substantial proportion of the review team shall be mental health professionals, at least some of whom are from other local programs

(b) The protocol used for the reviews shall be submitted to the

Conference of Local Mental Health Directors and other mental health organizations for review and comment.

(c) There shall be training for reviewers on the purposes and procedures of the review and on the use of the protocol

4063. A copy of the results of each review shall be transmitted to the local mental health advisory board

4064 The State Department of Mental Health shall establish a program review advisory committee comprised of directors of local mental health programs and others. At the request of a program that was reviewed or of the department, the advisory committee shall study and comment on program review results and recommendations

4065. In each county the State Department of Mental Health shall perform a followup assessment to determine the following:

(a) The changes in the program which resulted from the program review

(b) The views of the management and program staff on the value of the program review

(c) The suggestions of the management and program staff on how the review could have been more useful.

4066 The State Department of Mental Health shall take the initiative to contact and work cooperatively with other states and national organizations which are also attempting to establish standards for mental health program reviews and accreditation.

4067 The State Department of Mental Health shall bear the full cost of the reviews conducted to meet the requirements of this chapter

4068 The State Department of Mental Health shall issue a preliminary report to the Legislature by January 1, 1980, and a final report on January 1, 1981, on the results of the program reviews and on the recommendations of the department for future program reviews The reports shall include at least the following information:

(a) Summary information on the most commonly found strengths and deficiencies in the reviewed programs.

(b) The results of the followup assessments as outlined in Section 4065

(c) Comparison of the advantages and disadvantages of the different review models utilized.

(d) Results of the cooperative efforts with other organizations engaged in reviews as outlined in Section 4066.

(e) Recommendations for the type and timing of future program reviews

Article 5 Quality Assurance

4070 The State Department of Mental Health shall, by July 1, 1979, develop standards and guidelines for local quality assurance activities as required by Section 5624 These standards and guidelines shall be developed, periodically reviewed, and revised in

consultation with the Conference of Local Mental Health Directors.

The standards and guidelines developed by the department shall reflect the special problems that small rural counties have in undertaking comprehensive quality assurance systems.

4071. The department shall approve each local program's initial quality assurance plan, and shall thereafter, review and approve each program's quality assurance plan annually.

4072. The department shall monitor local compliance with the approved quality assurance program.

SEC. 3. Section 5624 is added to the Welfare and Institutions Code, to read:

5624. Each county mental health program shall establish by January 1, 1980, a quality assurance system that covers all county operated and county contracted mental health facilities and programs. As used in this section "quality assurance system" refers to a systematic approach for the evaluation of the quality of care which is designed to promote and maintain efficient, effective, and appropriate mental health services.

The quality assurance system shall contain at least the following components:

(a) Utilization review of all Short-Doyle funded inpatient services;

(b) Interdisciplinary peer review of the quality of patient care;

(c) Monitoring of the medication regimens of Short-Doyle clients including procedures to review the appropriateness of the medications prescribed, the appropriateness of the dosage levels prescribed, the effectiveness of the medications for the client, the occurrence of any adverse reactions, the extent of patient compliance, the level of patient information and ability to manage his own medication regimen; provided, that such monitoring shall be carried out by, be in conjunction with, or be under supervision of, a person licensed to prescribe or dispense prescription drugs.

The quality assurance system shall conform to the standards and guidelines for such systems established by the State Department of Mental Health, as specified in Section 4070.

The county's initial quality assurance system plan shall be approved by the Department of Mental Health by January 1, 1980, and shall thereafter be reviewed and approved by the Department of Mental Health annually.

SEC. 4. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the

state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Mental Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A description of the quality assurance system of the county mental health program as required by Section 5624 and a description of any other evaluation activities of the county mental health program such as client outcome evaluation, measurement of the availability and accessibility of services, and client satisfaction surveys.

(i) A description of the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county Short-Doyle plan. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 5. Section 5651 of the Welfare and Institutions Code is amended to read

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include

the number of persons to be served under each of the goals stated in Section 5600, plus persons served in each of the following target groups: children and adolescents, substance abusers, the developmentally disabled, and persons identified pursuant to subdivision (b) of Section 5600.2 who are likely to encounter barriers to using mental health services. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part

The State Department of Mental Health shall provide the counties, to the extent possible, the information upon which to base this estimate

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A description of the quality assurance system of the county mental health program as required by Section 5624 and a description of any other evaluation activities of the county mental health program such as client outcome evaluation, measurement of the availability and accessibility of services, and client satisfaction surveys.

(i) A description of the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county Short-Doyle plan. Such procedures shall be reviewed and approved by the local mental health advisory board.

(j) The development of adequate and effective treatment and community support services for persons who are institutionalized or have a high risk of becoming institutionalized, as described in subdivision (a) of Section 5600, shall be the first priority for program development through fiscal year 1982–83. A special three-year plan shall be prepared for the development of services to implement this priority. Within the plan, services shall be emphasized for first episode psychotics to prevent institutionalization whenever possible. The plan shall be designed to:

(1) Develop treatment services in the least restrictive environment as a fundamental patient right and as a means of minimizing institutionalization. In pursuance of this program development objective, respite services, and in-home services, shall be provided to families and community care operators when maintenance of the person in his or her own home, or in a community care facility, is the most appropriate living situation for the individual involved.

(2) Develop prevocational, vocational and community skill training and sheltered employment opportunities.

(3) The department shall specify requirements for the special plan which shall include as a minimum:

(i) Performance measures;

(ii) Case management services and coordination of residential placement;

(iii) A continuum of residential living and treatment alternatives, including independent or nearly independent apartment or home living;

(iv) Functional integration of mental health services with other human services such as rehabilitation, recreation, housing, transportation, and employment.

SEC 6 It is the intent of the Legislature, if this bill and Assembly Bill No. 3424 are both chaptered and become effective January 1, 1979, both bills amend Section 5651 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 3424, that the amendments to Section 5651 proposed by both bills be given effect and incorporated in Section 5651 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill No. 3424 are both chaptered and become effective January 1, 1979, both amend Section 5651, and this bill is chaptered after Assembly Bill No 3424, in which case Section 4 of this act shall not become operative.

CHAPTER 1394

An act to amend Sections 129 and 215.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 129 of the Revenue and Taxation Code is amended to read:

129. "Business inventories" shall include goods intended for sale or lease in the ordinary course of business and shall include raw materials and work in process with respect to such goods. "Business inventories" shall also include animals and crops held primarily for sale or lease, or animals used in the production of food or fiber and feed for such animals.

"Business inventories" shall not include any goods actually leased or rented on the lien date nor shall "business inventories" include business machinery or equipment or office furniture, machines or equipment, except when such property is held for sale or lease in the ordinary course of business. "Business inventories" shall not include any item held for lease which has been or is intended to be used by the lessor prior to or subsequent to the lease.

"Business inventories" shall also include goods held by a licensed contractor and not yet incorporated into real property.

SEC. 2. Section 215.5 of the Revenue and Taxation Code is amended to read:

215.5. All personal property owned or leased by a nonprofit corporation, which does not accept advertising for a consideration and is engaged exclusively in the production of programs for educational television, and all personal property owned or leased by a nonprofit educational organization, which is engaged exclusively in the production of programs as a noncommercial educational FM or AM broadcast station, shall be exempt from taxation, if such personal property is used solely and exclusively for the purposes of such organization or corporation and no part of the corporation's or organization's net earnings inure to the benefit of any private shareholder or individual.

SEC. 3. (a) Pursuant to Section 2229 of the Revenue and Taxation Code, no reimbursement shall be made for any revenue loss incurred by Section 2 of this act because actual loss of revenue does not include potential revenue from property of a type which was not being assessed and taxed on January 1, 1973. Since there are not now in existence any noncommercial educational AM broadcast stations which would benefit from this act, the exemption provided for by Section 2 of this act does not fall within Section 2229.

(b) No reimbursement shall be made for any revenue loss

incurred by Section 1 of this act because local agencies have classified property in the hands of contractors as business inventories and so Section 1 is declaratory of existing law.

SEC 4 No escape assessment shall be levied against property described in the amendment to Section 129 of the Revenue and Taxation Code, as enacted by Section 1 of this act, by any local agency which assessed property of that type as business inventory for the 1974–75, 1975–76, 1976–77, and 1977–78 fiscal years. This act shall be operative for the 1978–79 fiscal year and following fiscal years.

CHAPTER 1395

An act to amend Section 901 of the Probate Code, relating to decedents' estates

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

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

901. The executor, when no compensation is provided by the will or he renounces all claim thereto, or the administrator, shall receive commissions upon the amount of estate accounted for by him, as follows For the first fifteen thousand dollars ($15,000), at the rate of 4 percent; for the next eighty-five thousand dollars ($85,000), at the rate of 3 percent, for the next nine hundred thousand dollars ($900,000), at the rate of 2 percent, and for all above one million dollars ($1,000,000), at the rate of 1 percent. If there are two or more executors or administrators, the compensation shall be apportioned among them by the court according to the services actually rendered by each.

The commission to which the executor or administrator is entitled pursuant to this section shall be based upon the total amount of the inventory plus gains over appraisal value on sales, plus receipts, less losses on sales, without reference to encumbrances or other obligations on property in the estate, if any This paragraph shall apply whether or not a sale of property has taken place during the probate of the estate

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CHAPTER 1396

An act to add Sections 3578 and 3578.5 to, and to repeal Section 3578 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 3578 of the Elections Code is repealed.

SEC 2 Section 3578 is added to the Elections Code, to read:

3578. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county clerk uses data-processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on. The mailing shall commence not more than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered prior to the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county clerk does not utilize data-processing equipment to store the information set forth in the affidavits of registration, the county clerk shall be required to mail ballot pamphlets to voters before the election at which measures contained in the ballot pamphlet are to be voted on, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county clerk to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county clerk shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

SEC 3 Section 3578.5 is added to the Elections Code, to read:

3578.5 Any costs incurred by a county for mailing the ballot pamphlets pursuant to the provisions of subdivisions (b) and (c) of Section 3578 shall be reimbursed to the county by the Secretary of State

CHAPTER 1397

An act to amend Sections 66732, 66780.5, 66796, and 66796.34 of, and to add Sections 66714.8, 66780.7, 66796.11, 66796.12, 66796.37, and 66796.83 to, the Government Code, to amend Sections 25150, 25170, 25200, 25201, 25202, and 25203 of, and to repeal Section 25204 of, the Health and Safety Code, relating to solid waste.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1. Section 66714.8 is added to the Government Code, to read:

66714.8. "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may either:

(a) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(b) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

SEC. 2. Section 66732 of the Government Code is amended to read:

66732. No provision of this title or any ruling made pursuant thereto is a limitation on any of the following:

(a) The power of a city, county, city and county, or district to adopt and enforce regulations, not in conflict therewith, imposing conditions, restrictions, or limitations with respect to the handling or disposal of solid wastes.

(b) The power of any city, county, city and county, or district to declare, prohibit, and abate nuisances.

(c) The power of the Attorney General, on the request of the board, the department, the State Water Resources Control Board, a California regional water quality control board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

(d) The power of any state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer, including the exercise by the State Water Resources Control Board or the California regional water quality control boards of any of their powers and duties pursuant to Division 7 (commencing with Section 13000) of the Water Code, and also including the exercise by the State Department of Health Services of any of its powers and duties pursuant to Chapter 6 5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(e) The right of any person to commence and maintain at any time any appropriate action for relief against a nuisance as defined in the Civil Code

(f) The right of any person to dispose of inert, nontoxic and inorganic solid waste as land fill on his own property.

(g) The right of any person to dispose of organic and toxic waste materials on his own property in evaporization ponds from which there is no drainage or seepage.

(h) The right to operate a disposal site found by the State Water Resources Control Board to be adequately regulated by another governmental agency under subdivision (b) of Section 14020 of the Water Code

SEC. 3. Section 66780.5 of the Government Code, as amended by Chapter 429 of the Statutes of 1978, is amended to read:

66780.5 In addition to the other requirements of this title, the county solid waste management plan prepared pursuant to Section 66780 shall·

(a) Include in the first revision as required in Section 66780.7 an amendment delineating an enforcement program in accordance with the provisions of Chapter 3 (commencing with Section 66795), which has been reviewed by the board and the State Department of Health Services.

(b) Be reviewed, and revised, if appropriate, at least every three years and revised where necessary to be consistent with state policy. A report of the results of the plan review shall be submitted to the board and to the department beginning on the third anniversary of the date of board approval of the plan submitted pursuant to Section 66780 with subsequent reviews and reports at least every three years thereafter.

(c) Any amendment to the plan shall be approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county. Each proposed amendment shall be submitted to each city within the county. Each city shall act upon the proposed amendment within 90 days after the city has received the amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the amendment as submitted. Each amendment shall be submitted to the board for approval as to its compliance with state policy.

SEC. 4 Section 66780.7 is added to the Government Code, to read

66780.7 Each plan prepared pursuant to the Section 66780 shall be submitted to the board no later than January 1, 1976, for review and approval as to compliance with state solid waste management policy That portion of the county solid waste plan which deals with hazardous waste disposal shall be submitted to the department for review and approval and shall be in compliance with state hazardous waste standards adopted by the department pursuant to Section 25150 of the Health and Safety Code. In reviewing the hazardous

waste portion of the plan, the department shall specifically consider the rural or urban nature of a county, the volumes and type of hazardous waste produced, and the need for hazardous waste facilities in a county Once the department has approved the hazardous waste portion of a plan, that portion of the plan shall not be subject to further review or alteration by the board.

SEC. 5 Section 66796 of the Government Code is amended to read

66796. On or before July 1, 1977, there shall be designated within each county an enforcement agency to carry out the provisions of this chapter. If an agency is not designated by July 1, 1977, the board, in addition to its other powers, shall be the enforcement agency within the county failing to make the designation.

(a) The designation of the enforcement agency shall be made by any of the following procedures:

(1) The board of supervisors of the county may designate the enforcement agency subject to the approval by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county; or

(2) The county and the cities within the county may enter into a joint exercise of powers agreement pursuant to Section 6500 of the Government Code for the purpose of establishing an enforcement agency ; or

(3) The county and each city within the county may designate an enforcement agency to carry out the provisions of this chapter. In the case of a city and county, the city and county shall designate the enforcement agency

(b) If no enforcement agency is designated and the board becomes the enforcement agency, nothing in this chapter shall prevent a designation of an enforcement agency under subdivision (a) of this section at a later date.

(c) A designation made pursuant to this section may be withdrawn in the same manner in which it was made.

(d) No local governmental department or agency which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency for the type of solid waste handling or disposal operation it conducts. A conditional waiver to this requirement may be granted by the board upon submission of details by the local entity requesting such waiver. The board may review annually effects or impacts of the waiver.

SEC. 6. Section 66796.11 is added to the Government Code, to read:

66796.11 For those facilities which accept only hazardous wastes and to which the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code apply, the State Solid Waste Management Board shall have no enforcement or regulatory authority. Except as otherwise provided in Section 66732, all enforcement activities for such facilities relative to the control of hazardous wastes shall be performed by the department

pursuant to the provisions of Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code.

SEC. 7. Section 66796.12 is added to the Government Code, to read.

66796 12. For those facilities which accept both hazardous wastes and other solid wastes, such as municipal refuse, the department shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to the provisions of Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code. The board shall, at such mixed waste disposal facilities, exercise enforcement and regulatory powers relating to the control of solid wastes other than hazardous wastes at the facility pursuant to the provisions of this chapter.

SEC. 8. Section 66796.34 of the Government Code is amended to read:

66796.34. (a) Upon compliance with the provisions of Section 66796.32 and after any necessary hearing, the enforcement agency may issue, modify, or revise a solid waste facilities permit if the board has concurred in the permit and if the enforcement agency, in the permit, makes both of the following findings based on substantial evidence·

(1) The proposed solid waste facilities permit is consistent with the county solid waste management plan prepared under Section 66780.

(2) The proposed solid waste facilities permit is consistent with the standards adopted by the board.

The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(b) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the disposal site owner and the person who is or proposes to become an operator of a transfer/processing station or a disposal site, or both, a copy of the solid waste facilities permit.

SEC. 9. Section 66796.37 is added to the Government Code, to read:

66796.37. (a) For those facilities which accept only hazardous wastes, a solid waste facilities permit issued by the board shall not be required. A single hazardous waste facilities permit issued by the department pursuant to the provisions of Article 9 (commencing with Section 25200) of Chapter 6.5 of Division 20 of the Health and Safety Code shall be the only waste facilities permit necessary for the use and operation of hazardous waste disposal facilities.

(b) For those facilities which accept both hazardous wastes and other solid wastes, such as municipal refuse, two permits shall be required·

(1) The hazardous waste facilities permit issued by the department pursuant to Article 9 (commencing with Section 25200)

of Division 20 of the Health and Safety Code; and

(2) The solid waste facilities permit issued by the board pursuant to this article.

(c) Nothing in this section shall limit or supersede any other permit or licensing requirements imposed by other provisions of law.

SEC. 10. Section 66796.83 is added to the Government Code, to read:

66796.83. Notwithstanding any other provision of law, the powers and duties of the department pursuant to the provisions of Chapter 6 5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, including those concerning the issuance of permits for hazardous waste disposal sites, enforcement activities related to the handling, transportation, storage, use, processing, and disposal of hazardous wastes, and the development of programs for the recycling and recovery of resources from hazardous wastes, shall not be assumed or duplicated by the board pursuant to its responsibilities, powers, and duties provided in this title.

SEC. 11. Section 25150 of the Health and Safety Code is amended to read.

25150. The department shall adopt, and may revise when appropriate, minimum standards and regulations for the handling, processing, use, storage, and disposal of, and the recovery of resources from, hazardous and extremely hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.

The department shall establish standards and requirements for the use and operation of facilities for handling, processing, storing, and disposal of hazardous waste, and for the recovery of resources from hazardous waste

Before adoption of such standards and regulations, the department shall consult with all agencies of interested local governments and secure technical assistance from the Department of Food and Agriculture, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, and the State Solid Waste Management Board.

SEC 12. Section 25170 of the Health and Safety Code is amended to read·

25170. The department in performing its duties under this chapter shall.

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste disposal, recycling practices, and related information for public and private use.

(c) Provide statewide planning for hazardous waste facility site

identification and assessment and render technical assistance to state and local agencies in the planning and operation of hazardous waste programs

(d) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

(e) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.

(f) Determine existing and expected rates of production of hazardous waste.

(g) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.

(h) Promote recycling and recovery of resources from hazardous wastes.

(i) Conduct studies for the purpose of improving departmental operations

(j) Encourage the reduction or exchange, or both, of hazardous waste

(k) Establish and maintain an information clearinghouse, which shall consist of a record of wastes which may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in Section 25160. The department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

SEC. 13. Section 25200 of the Health and Safety Code is amended to read:

25200 The department shall issue hazardous waste facilities permits to use and operate facilities which in the judgment of the department meet the standards and requirements adopted pursuant to Section 25150

SEC 14. Section 25201 of the Health and Safety Code is amended to read:

25201. Three months after the department adopts standards and requirements pursuant to Section 25150, no operator of a treatment facility, waste transfer station, waste storage area, resource recovery facility, or waste disposal site shall accept or dispose of a hazardous waste unless the operator holds a valid hazardous waste facilities permit from the department to use and operate such facility, station, area, or site

SEC. 15. Section 25202 of the Health and Safety Code is amended to read·

25202. Compliance with conditions on the hazardous waste facilities permit and with regulations adopted by the department pursuant to this chapter shall be required to sustain the validity of such permit The department may impose conditions on such permit, including, but not limited to, the types of hazardous wastes which

may be accepted or disposed of, special operating conditions, and changes in the operation of the permittee necessary to comply with the requirement promulgated pursuant to this chapter.

SEC. 16. Section 25203 of the Health and Safety Code is amended to read.

25203 Three months after the department adopts standards and requirements pursuant to Section 25150, it shall be unlawful for any person to dispose of a hazardous waste except at a disposal site or facility of an operator who holds a valid hazardous waste facilities permit from the department to use and operate such site or facility.

SEC. 17 Section 25204 of the Health and Safety Code is repealed.

SEC 18. Section 66780 7 of the Government Code, as enacted by this act is not intended to, and shall not be construed as, requiring review or revision of a county solid waste management plan prior to the time when such plan would otherwise be subject to review as provided by subdivision (b) of Section 66780.5 of the Government Code

SEC. 19 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes and because there are no new duties, obligations, or responsibilities imposed on local government by this act

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CHAPTER 1398

An act to add Section 92612 to the Education Code, relating to the University of California.

[Approved by Governor September 30, 1978 Filed with Secretary of State September 30, 1978]

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

SECTION 1 Section 92612 is added to the Education Code, to read·

92612. (a) Every individual shall have the right of access to all personal information, as defined in subdivision (b) of Section 1798.3 of the Civil Code, contained in any employee record which is maintained by the University of California which pertains to the individual

(b) If information relating to the employment, advancement, renewal of appointment, or promotion of any individual in an academic senate position is received with the promise or

understanding that the identity of the source of the information would be held in confidence, the university shall provide a copy of the text of such information to the individual to whom the information pertains with only the deletion of the name and affiliation, if any, of the source. "Information," as used in this subdivision, shall be limited to letters of recommendation, and reports of faculty review committees compiled for the purpose of determining the qualifications of members of the academic senate for employment, advancement, renewal of appointment, or promotion.

(c) The provisions of subdivisions (a) and (b) of this section shall not apply to any personal information, as defined in subdivision (b) of Section 1798.3 of the Civil Code, received prior to January 1, 1979, with the promise or understanding that the identity of the source of the personal information would be held in confidence.

(d) Subdivisions (b) and (c) of this section shall not be applicable to the University of California unless adopted by the regents.

CHAPTER 1399

An act to amend Section 12303 of the Welfare and Institutions Code, relating to home health care services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 12303 of the Welfare and Institutions Code, as amended by Chapter 75 of the Statutes of 1974, is amended to read:

12303 A contract pursuant to Section 12302 shall include the following provisions:

(a) The cost of the service shall not exceed by more than 10 percent the allowable cost of the service as determined by the State Department of Health.

(b) The provider agency shall agree to give preference to the training and employment of recipients of public assistance or other low-income persons who would qualify for public assistance in the absence of such employment.

(c) The cost of the purchase of such service will qualify, where possible, for the maximum federal reimbursement.

(d) A bond may be obtained to secure payment of wages in the event that bankruptcy, liquidation, embezzlement, fraud, or other factors prevent payment of wage claims to homemakers, homemaker chore workers, or other in-home supportive service personnel

The provisions of this section shall not restrict the right of a chartered county from providing a civil service classification for in-home supportive service personnel.

SEC. 2. Section 12303 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

12303 A contract pursuant to Section 12302 shall include the following provisions.

(a) The cost of the service shall not exceed by more than 10 percent the allowable cost of the service as determined by the State Department of Social Services.

(b) The provider agency shall agree to give preference to the training and employment of recipients of public assistance or other low-income persons who would qualify for public assistance in the absence of such employment.

(c) The cost of the purchase of such service will qualify, where possible, for the maximum federal reimbursement.

(d) A bond may be obtained to secure payment of wages in the event that bankruptcy, liquidation, embezzlement, fraud, or other factors prevent payment of wage claims to homemakers, homemaker chore workers, or other in-home supportive service personnel.

The provisions of this section shall not restrict the right of a chartered county from providing a civil service classification for in-home supportive service personnel.

SEC. 3. In passing this act during the 1977–1978 Regular Session, the Legislature intends to provide financial support to persons who provided homemaker chore services in Fresno, Imperial, Plumas, San Francisco, San Luis Obispo and Tulare Counties during the period June 1976 to August 1976, pursuant to a contract from Visiting Home Services, Inc. The Legislature recognizes that these workers provided homemaker chore services but did not receive compensation for these services due to the bankruptcy of Visiting Home Services, Inc , and its wholly owned subsidiary Health Help, Inc. The Legislature recognizes that compensation for these services is delayed until proceedings are completed in federal bankruptcy court relating to the bankruptcy estate of Visiting Home Services, Inc. The Legislature further recognizes that the State Board of Control denied without prejudice a claim for these services on June 7, 1977, and stated an opinion that this claim would be more appropriately settled through special legislation. Therefore, the Legislature hereby intends to provide payment for the compensation claims of the homemaker chore employees until such time that any payments from the bankruptcy proceedings may in whole or in part reimburse the state for the amount of compensation. The Legislature does not recognize any liability on the part of the State of California. This act is not intended in any manner to affect past, present, or future homemaker chore contracts between the State of California and counties, or between counties and corporations or individuals The Legislature also recognizes that

Madera, Santa Barbara and Tehama Counties directly paid the employees of Visiting Homes Services, Inc. in their counties, after it declared bankruptcy instead of paying the claims of the Visiting Home Services, Inc. bankruptcy trustee. Madera, Santa Barbara and Tehama Counties and the State of California have been sued by the bankruptcy trustee for payment of these claims.

SEC. 4. The sum of two hundred twenty-seven thousand seven hundred forty-three dollars and thirty cents ($227,743.30) is hereby appropriated from the General Fund to the State Board of Control for allocation for the payment of claims of homemaker chore personnel in Fresno, Imperial, Plumas, San Francisco, San Luis Obispo and Tulare Counties, for work provided in the period between June 1976 and August 1976, pursuant to their employment by Visiting Home Services, Inc., or its wholly owned subsidiary Health Help, Inc. The Division of Labor Standards Enforcement of the Department of Industrial Relations shall seek reimbursement of the sum from the bankruptcy estate of Visiting Home Services, Inc. or its wholly owned subsidiary Health Help, Inc.

SEC. 5. The amendments to Sections 12303 of the Welfare and Institutions Code made by this act shall not apply to any contract in effect on the effective date of this act.

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

In order to settle claims and end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

SEC. 7. Section 12303 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall remain in effect only until July 1, 1978, and on such date is repealed. Section 12303 of the Welfare and Institutions Code, as amended by Section 2 of this act, shall become operative on July 1, 1978.

CHAPTER 1400

An act to amend Section 70136 of the Government Code, relating to official reporters.

[Became law without Governor's signature October 1, 1978. Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 70136 of the Government Code is amended to read.

70136. (a) Notwithstanding any other provision of law, the monthly salary of each full-time official reporter of the Superior Court in Santa Cruz County shall be as follows:

Step 1: $1,194
Step 2: $1,253
Step 3: $1,312
Step 4: $1,374
Step 5: $1,440

The initial hiring rate for each position shall be step 1. However, the judges of the superior court may appoint any such court reporter at a higher initial step if, in the opinion of the judges of the superior court, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step. A person may advance to the next higher step upon completion of a year of service at the lower step.

In addition to the compensation provided in this article, each full-time reporter of the superior court shall be entitled to, and shall receive the same vacation, sick leave, and similar privileges and benefits as are now or may hereafter be provided for the employees of the county.

(b) Notwithstanding any other provision of the law, compensation for each official reporter pro tempore shall be sixty-five dollars ($65) a day for each day such reporter pro tempore is on duty under order of the court. Each reporter pro tempore shall receive from the county the necessary traveling and other expenses when necessarily called from other counties.

SEC 2. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Santa Cruz County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties

SEC. 3. If any provision of this act, or of Section 68515 of the Government Code or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

SEC 4 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because

this act is in accordance with the request of a local government entity or entities which desires legislative authority to carry out the program specified in this act.

CHAPTER 1401

An act to amend Sections 70047, 70056.5, 73341, 73347, 73350, 73351.1, 73352, 73354, 73354.5, 73355, 73356, 73357, 73358, and 73360.1 of, and to add Sections 73353.7 and 73353.8 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978. Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 70047 of the Government Code is amended to read:

70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Eighteen thousand four hundred eighty dollars ($18,480).

Step 2. Nineteen thousand four hundred four dollars ($19,404).

Step 3. Twenty thousand three hundred seventy-six dollars ($20,376)

Step 4. Twenty-one thousand three hundred ninety-six dollars ($21,396)

Step 5. Twenty-two thousand four hundred sixty-four dollars ($22,464).

The step of entry to the above schedule shall be step 1. However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher initial step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. The compensation of each official reporter pro tempore shall be at the rate of seventy dollars ($70) a day for the days he actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and intermediate typist-clerk. Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate of seventy dollars ($70) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 1.5. Section 70056.5 of the Government Code is amended to read:

70056.5 Notwithstanding the provisions of Section 70056, in Contra Costa County the fee required by Section 70053 shall be eighteen dollars ($18).

SEC 2. Section 73341 of the Government Code is amended to read:

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bay Judicial District	5
Delta Judicial District	2
Mt Diablo Judicial District	4
Walnut Creek-Danville Judicial District	3
Any other court established or declared to exist	1

SEC. 3. Section 73347 of the Government Code is amended to read:

73347. In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of Title 8, a fee of eighteen dollars ($18) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(a) Upon the filing of a complaint or other first paper.

(b) Upon the filing of an answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(c) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to

the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of Title 8.

SEC. 4. Section 73350 of the Government Code is amended to read:

73350. There are the following classes of positions into which each of the positions of the municipal courts and marshals' offices shall be assigned as prescribed in the section pertaining to each court or marshal's office.

(a) Deputy clerk I, which shall include all municipal courts and marshals' offices employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk II, which shall include all municipal courts and marshals' offices employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(c) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(d) Process clerk, which shall include all marshals' offices employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(e) Supervising process clerk, which shall include all marshals' offices employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks I, deputy clerks II and process clerks.

(f) Deputy clerk IV, which shall include clerical duties of a complex and varied nature in which the incumbent works independently, such as an employment having as a primary assignment the discharge of a court's orders and the maintenance of court minutes.

(g) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and, subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(h) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court (schedule A in court with five through seven judges, schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(i) Deputy marshal, which shall include all marshals' offices employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and

acting as bailiff when the municipal court is in session.

(j) Deputy marshal sergeant, which shall include any position in a marshal's office responsible for assigning and reviewing the work of several deputy marshals I in serving court processes and other peace officer activities

(k) Assistant marshal, which shall include any position in a marshal's office responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities.

(*l*) Marshal, which shall include any nonelective position responsible for the management and supervision of the duties of the office of marshal in any multijudge judicial district (schedule A in court with five through seven judges, schedule B in court with two through four judges)

SEC. 5. Section 73351.1 of the Government Code is amended to read.

73351.1. Classes of positions provided in Section 73350 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level 194
(b) Deputy clerk II	Level 240
(c) Deputy clerk III	Level 304
(d) Process clerk	Level 304
(e) Supervising process clerk	Level 352
(f) Deputy clerk IV	Level 367
(g) Deputy marshal	Level 417
(h) Chief deputy clerk	Level 447
(i) Deputy marshal sergeant	Level 465
(j) Assistant marshal	Level 529
(k) Clerk-administrator of the court (schedule B)	Level 519
(*l*) Marshal (schedule B)	Level 545
(m) Clerk-administrator of the court (schedule A)	Level 555
(n) Marshal (schedule A)	Level 563

SEC 6 Section 73352 of the Government Code is amended to read.

73352. Certain classifications in the municipal courts and marshals' offices are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costra County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts or marshals' offices shall be adjusted a commensurate number of levels on the salary schedule Such adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but such adjustment shall be effective only until January 1, of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk I is equivalent in job and salary level

to the class of typist-clerk I in the service of Contra Costa County. The class of deputy clerk II is equivalent to intermediate typist-clerk.

(b) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk III and process clerk shall be adjusted an equivalent number of levels on the salary schedule

(c) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County. The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County. The class of assistant marshal shall be allocated to a salary level which is not a lesser amount than fifty (50) salary levels below that of marshal (schedule A). The class of marshal (schedule B) shall be allocated to a salary level which is not less than eighty (80) salary levels on the salary schedule above that of deputy marshal sergeant The class of marshal (schedule A) shall be allocated to a salary level which is not less than ninety-six (96) salary levels on the salary schedule above that of deputy marshal sergeant.

(d) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary of municipal court reporters shall be adjusted. Such adjustment shall be effective on the same date as the superior court reporter salaries are adjusted

(e) The class of supervising process clerk shall be allocated to a salary level which is forty-eight (48) salary levels on the salary schedule above that of process clerk.

(f) The class of deputy clerk IV shall be allocated to a salary level which is sixteen (16) salary levels on the salary schedule below the county class of superior court clerk. Whenever the salary of the class of superior court clerk is adjusted by the board of supervisors the class of deputy clerk IV shall be adjusted an equivalent number of levels on the salary schedule.

(g) The class of chief deputy clerk shall be allocated to a salary level which is not less than eighty (80) salary levels on the salary schedule above that of deputy clerk IV.

(h) The class of clerk-administrator of the court (schedule B and schedule A) shall be allocated to a salary level which is not less than seventy-two (72) and one hundred four (104) salary levels, respectively, on the salary schedule above that of chief deputy clerk.

SEC. 7. Section 73353 7 is added to the Covernment Code, to read:

73353 7 In a municipal court district having five judges, the following positions are authorized:

(a) One (1) clerk-administrator of the court (schedule A).

(b) Two (2) chief deputy clerks

(c) Fourteen (14) deputy clerks IV

(d) Twenty (20) deputy clerks III

(e) Forty (40) deputy clerks II or deputy clerks I, not to exceed a combined total of 40 positions at any one time.

SEC. 8. Section 73353.8 is added to the Government Code, to read:

73353.8. In a municipal court district having five judges, the following positions are authorized:

(a) One (1) marshal (schedule A).

(b) One (1) assistant marshal.

(c) One (1) deputy marshal sergeant.

(d) Eighteen (18) deputy marshals.

(e) One (1) supervising process clerk.

(f) Two (2) process clerks.

(g) Ten (10) deputy clerks II or deputy clerks I, not to exceed a combined total of 10 positions at any one time.

(h) Twenty (20) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purpose of obtaining civil service status or any other benefits of this article

SEC. 9. Section 73354 of the Government Code is amended to read:

73354. In a municipal court district having four judges, the following positions are authorized:

(a) One (1) clerk-administrator of the court (schedule B).

(b) One (1) chief deputy clerk.

(c) Ten (10) deputy clerks IV.

(d) Twelve (12) deputy clerks III.

(e) Twenty-two (22) deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

SEC. 10. Section 73354.5 of the Government Code is amended to read:

73354.5. In a municipal district having four judges, the following positions are authorized:

(a) One (1) marshal (schedule B).

(b) One (1) deputy marshal sergeant.

(c) Twelve (12) deputy marshals.

(d) One (1) supervising process clerk.

(e) One (1) process clerk.

(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.

(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the

judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 11 Section 73355 of the Government Code is amended to read:

73355. In a municipal court district having three judges, the following positions are authorized:

(a) One (1) clerk-administrator of the court (schedule B).

(b) One (1) chief deputy clerk.

(c) Nine (9) deputy clerks IV.

(d) Ten (10) deputy clerks III.

(e) Twenty-two (22) deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time

SEC 12. Section 73356 of the Government Code is amended to read:

73356. In a municipal court district having three judges, the following positions are authorized:

(a) One (1) marshal (schedule B).

(b) One (1) deputy marshal sergeant.

(c) Twelve (12) deputy marshals.

(d) One (1) supervising process clerk.

(e) One (1) process clerk.

(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.

(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 13 Section 73357 of the Government Code is amended to read

73357. In a municipal court district having two judges, the following positions are authorized:

(a) One (1) clerk-administrator of the court (schedule B).

(b) One (1) chief deputy clerk

(c) Five (5) deputy clerks IV.

(d) Ten (10) deputy clerks III.

(e) Eighteen (18) deputy clerks II or deputy clerks I, not to exceed a combined total of 18 positions at any one time.

SEC. 14 Section 73358 of the Government Code is amended to read·

73358 In a municipal court district having two judges, the following positions are authorized·

(a) One (1) marshal (schedule B).

(b) One (1) deputy marshal sergeant.

(c) Six (6) deputy marshals.

(d) One (1) process clerk

(e) Four (4) deputy clerks II or deputy clerks I, not to exceed a combined total of four positions at any one time.

(f) Ten (10) deputies, who serve as custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 15. Section 73360.1 of the Government Code is amended to read:

73360.1. Approval of the board of supervisors shall be obtained prior to filling any such position in Section 73353.7, 73353.8, 73354, 73354.5, 73355, 73356, 73357 or 73358 which has never been filled.

SEC. 16. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Contra Costa County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 17. In the event that Section 68526 of the Government Code as it relates to Contra Costa County or Sections 1 or 6 of this act as they relate to court reporters, or the application thereof, is enjoined, restrained, or otherwise held invalid, Sections 1 or 6 of this act as they relate to court reporters shall be void, and to this end, Sections 1 or 6 of this act as they relate to court reporters and Section 68526 of the Government Code as it relates to Contra Costa County are inseverable.

SEC. 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section or shall there be an appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to carry out the program specified in this act.

CHAPTER 1402

An act to amend Sections 72602.15, 72608, 72640, 72645, 72646, 72701, 72702, 72702.5, 72703, 72704, 72704.5, 72705, 72717, 72717.5, 72750 5, 72751, 72751.1, 72751.5, 72752, 72753, and 72754 of, and to repeal Sections 72718, 72718.1, and 72718.2 of, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 72602.15 of the Government Code is amended to read:

72602.15. Notwithstanding the provisions of Section 72602, the San Antonio Municipal Court District and South Gate Municipal Court District are consolidated into the Southeast Municipal Court District which shall have five judges

The officers and attachés of the San Antonio Municipal Court District and the South Gate Municipal Court District employed by such districts on the operative date of this section shall be the officers and attachés of the Southeast Municipal Court District with all of the rights and benefits to which they were entitled as employees of said districts.

SEC. 1 5. Section 72608 of the Government Code is amended to read.

72608. Certain classes of positions prescribed in Articles 2 (commencing with Section 72640), 3 (commencing with Section 72700) and 4 (commencing with Section 72750) of this chapter are deemed to be equivalent in job and salary level to position classifications included in the salary adjustments and employee rights and benefits for related classes of compensation and employee rights and benefits between such officers and attachés of municipal courts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such ordinance adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such salary adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the

salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number.

Table of Positions

Court classification	County classification
Officer Series	
Inspector Marshal Assistant marshal	Inspector
Captain	Captain
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal III Deputy marshal IV	Deputy sheriff III
Deputy marshal II	Deputy sheriff II
Deputy marshal I	Deputy sheriff I
Deputy marshal-matron	Corrections officer
Program Analysis Series	
Chief program analyst	Deputy county counsel III
Program analyst I	Deputy county counsel II
Legal research assistant	Law clerk
Administrative—Branch Supervisor—Courtroom Series	
All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table, except those specified in Section 72704.5	Superior court clerk
Clerk, Los Angeles Judicial District	
Personnel officer	Personnel officer II
Special assistant Administrative services	Accountant III

Administrative Services Series

Head, administrative services, marshal	Administrative analyst
Senior staff assistant marshal	
Staff assistant, marshal	

Stenographic Series

Intermediate stenographic secretary	Intermediate stenographic secretary
Judicial secretary	
Administrative secretary presiding judge	
Administrative secretary clerk	
Administrative secretary marshal	
Stenographic secretary	
Senior stenographic secretary	
Stenographic secretary, municipal courts	
Senior stenographer municipal courts	
Stenographer, municipal courts	Legal stenographer

Clerical Series

Deputy clerk II	Intermediate typist-clerk
Deputy clerk I	
Deputy clerk III	
Administrative clerk	
Typist-clerk	
Deputy clerk-custody officer	
Senior payroll clerk, marshal	

Storekeeper Series

Supply and reproduction supervisor	Storekeeper III
Supply and reproduction	

assistant

Salary adjustments made pursuant to this section shall be effective until January 1 of the second year following the calendar year in which such adjustments are made.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights and benefits including, but not limited to, paid medical plans, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County employee classification

SEC. 1.6. Section 72640 of the Government Code is amended to read:

72640. There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be appointed pursuant to this article, and who shall receive the monthly compensation specified in Schedule 76D.

SEC. 2. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint:

(a) One assistant marshal who shall receive the monthly compensation specified in Schedule 72D. The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. The provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be applicable. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal.

(b) Three inspectors, each of whom shall receive monthly compensation as provided in Schedule 66D.

(c) Ten captains, each of whom shall receive monthly compensation as provided in Schedule 60D.

(d) Twenty-eight lieutenants, each of whom shall receive monthly compensation as provided in Schedule 57E.

(e) Thirty-six sergeants, each of whom shall receive monthly compensation as provided in Schedule 51A.

(f) Fifty deputy marshals IV, each of whom shall receive monthly compensation as provided in Schedule 44J.

(g) One hundred twelve deputy marshals III, each of whom shall receive monthly compensation as provided in Schedule 42J.

(h) Two hundred seventy-six deputy marshals II, each of whom shall receive monthly compensation as provided in Schedule 40H, and who shall have completed one full year of service and possess a P.O.S.T. specialized basic certificate.

(i) Forty-five deputy marshals I, each of whom shall receive monthly compensation as provided in Schedule 38H. Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the provisions of Section 72649, such deputies shall be subject to a 12-month period of probation.

(j) Ten deputy marshal-matrons, each of whom shall receive monthly compensation as provided in Schedule 32L, and who shall have completed a course of training which meets the requirements of the P.O.S.T Commission for a specialized law enforcement basic certificate.

SEC. 3. Section 72646 of the Government Code is amended to read.

72646. The marshal shall appoint

(a) One head, administrative services, marshal, who shall receive compensation as provided in Schedule 53D.

(b) One senior staff assistant, marshal, who shall receive compensation as provided in Schedule 46D.

(c) One administrative secretary, marshal, who shall receive monthly compensation as provided in Schedule 35J. Appointment to said position shall be at step 3 of said schedule

(d) Two staff assistants, marshal, each of whom shall receive compensation as provided in Schedule 36F.

(e) One senior stenographic secretary who shall receive monthly compensation as provided in Schedule 34H

(f) Two principal clerks, each of whom shall receive monthly compensation as provided in Schedule 33G.

(g) One supply and reproduction supervisor who shall receive monthly compensation as provided in Schedule 32H

(h) Two intermediate stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 29H

(i) Ten administrative clerks, each of whom shall receive monthly compensation as provided in Schedule 29C.

(j) Twenty-three deputy clerk-custody officers, each of whom shall receive monthly compensation as provided in Schedule 28C

(k) One senior payroll clerk, marshal, who shall receive monthly compensation as provided in Schedule 28C.

(*l*) One supply and reproduction assistant who shall receive monthly compensation as provided in Schedule 26H.

(m) Fifty-two deputy clerks, grade.III, each of whom shall receive monthly compensation as provided in Schedule 25D.

(n) Three stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 23H.

(o) Sixty deputy clerks, grade II, each of whom shall receive monthly compensation as provided in Schedule 19E.

(p) Fifteen deputy clerks, grade I, each of whom shall receive monthly compensation as provided in Schedule 14B. Appointments to such positions shall be at step 4 of such schedule.

(q) Such deputies who shall be keepers, as may be reasonably

1 2620 0 18314

required pursuant to law, at the fee allowed by law for keeping property.

(Amended by Stats 1978, Ch. 1402.)

SEC. 4 Section 72701 of the Government Code is amended to read.

72701 The judges of the municipal court shall appoint as many commissioners, not exceeding 13, as the business of the court requires. Each commissioner shall possess the same qualifications as the law requires of a judge of the court Within the jurisdiction of the court and under the direction of the judges, each commissioner shall exercise the powers and perform the duties authorized by law to be performed by commissioners of the superior court and such additional powers and duties as may be prescribed by law. Each commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid the Court Commissioners of the Superior Court of the County of Los Angeles. If, however, the amount of the salary is fixed under a step plan of compensation based upon tenure of service, each incumbent shall nevertheless receive a salary equal to the top step thereof. In no event shall such salary exceed the salary provided for the judges of the municipal courts. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes attachés of the court. They shall not engage in the private practice of law

One of the commissioners shall also serve as administrative officer or executive officer of the court. The assignment shall be made by the judges of the court and they may delegate to the commissioner such administrative powers and duties as they deem necessary for the administration of the court The commissioner shall receive a monthly salary which is 10 percent in excess of that provided by law for a commissioner of the court but which shall not exceed the salary of a judge of the court.

SEC 5 Section 72702 of the Government Code is amended to read·

72702 There shall be one clerk or clerk-administrative officer who shall be appointed by the judges of the court and who shall receive a monthly salary at a rate specified in Schedule 71G of the salary schedule Notwithstanding any other provisions of law, whenever any vacancy occurs, the judges shall appoint one clerk who shall hold office at their pleasure and who shall receive the salary hereinabove provided

SEC 6 Section 72702.5 of the Government Code is amended to read.

72702 5 The clerk may appoint one chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary at a rate specified in Schedule 61E of the salary schedule

SEC. 7 Section 72703 of the Government Code is amended to read·

72703. The clerk may appoint:

(a) One deputy clerk who shall be chief, traffic division, and who shall receive a monthly salary at a rate specified in Schedule 54E.

(b) One deputy clerk who shall be chief, civil division, and who shall receive a monthly salary at a rate specified in Schedule 54E.

(c) One deputy clerk who shall be chief, criminal division, and who shall receive a monthly salary at a rate specified in Schedule 54E.

(d) One deputy clerk who shall be chief, data-processing division, and who shall receive a monthly salary at a rate specified in Schedule 54E.

(e) One deputy clerk who shall be chief, valley division, and who shall receive a monthly salary at the same rate specified for chief, traffic, civil and criminal division.

(f) Seven deputy clerks, deputy chiefs, each of whom shall receive a monthly salary at a rate four schedules more than the rate specified for principal clerk.

(g) One deputy clerk who shall be chief, administrative services, and who shall receive a monthly salary at a rate specified in Schedule 54E.

(h) One deputy clerk who shall be special assistant to the executive officer, and who shall receive a monthly salary at the same rate specified in schedule for chief, traffic, civil and criminal division.

(i) One deputy clerk, who shall be criminal courts coordinator, and who shall receive a monthly salary at a rate specified in Schedule 41E.

(j) Seven deputy clerks, principal clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 45F.

(k) One deputy clerk who shall be special assistant to the chief, administrative services division, and who shall receive a monthly salary at a rate specified in Schedule 43A.

(*l*) One deputy clerk who shall be personnel officer and who shall receive a monthly salary at a rate specified in Schedule 53D.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule.

SEC. 8. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) Ninety-five deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 64 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law, each of whom shall receive a monthly salary at a rate specified in Schedule 41E.

(b) One deputy clerk, executive secretary, presiding judge, who shall receive a monthly salary at a rate specified in Schedule 39H. Appointments to said position shall be at step 3 of said schedule.

(c) One deputy clerk, administrative secretary, clerk, who shall receive a monthly salary at a rate specified in Schedule 35H. Appointments to said position shall be at step 3 of said schedule.

(d) Fifteen deputy clerks, judicial secretary, each of whom shall receive a monthly salary at a rate specified in Schedule 29H. Appointments to said positions shall be at step 3 of said schedule.

(e) Seventy-five deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(f) Five deputy clerks, supervising clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 30E.

(g) One hundred forty-five deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(h) One hundred fifty-five deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to such positions shall be at step 3 of the schedule.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule

SEC 9 Section 72704.5 of the Government Code is amended to read:

72704 5 The clerk may also appoint the following deputy clerks as needed

(a) One computer operations supervisor, who shall receive a monthly salary 10 schedules more than the schedule specified for supervising computer operators

(b) One data conversion supervisor III, who shall receive a monthly salary at a rate specified in Schedule 37H.

(c) Three data conversion supervisors I, each of whom shall receive a monthly salary at a rate specified in Schedule 28B.

(d) Twelve senior data conversion equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 24L.

(e) Seventy-five data conversion equipment operators I, each of whom shall receive a monthly salary at a rate specified in Schedule 20L

(f) One EDP data systems analyst who shall receive a monthly salary at a rate specified in Schedule 44K.

(g) One EDP staff aide who shall receive a monthly salary at a rate specified in Schedule 28L

(h) Six supervising computer operators, each of whom shall receive a monthly salary at a rate specified in Schedule 38K.

(i) Six computer systems operators, each of whom shall receive a monthly salary at a rate specified in Schedule 32J.

(j) Six computer equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 27B.

(k) One senior data control clerk, who shall receive a monthly salary at the rate specified in Schedule 23L

(*l*) Two data control clerks, each of whom shall receive a monthly salary at the rate specified in Schedule 19L.

On the effective date of any amendment to the salary ordinance of Los Angeles County adjusting the salary of any position having the same classification as a court position listed in this section, the salary

of such listed court position shall be adjusted an equivalent number of schedules in the salary schedule to which it is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number Such salary adjustments shall be on an interim basis and shall expire January 1 of the second calendar year following such adjustments, unless ratified by the Legislature.

Persons occupying positions listed in this section shall be entitled to all employee benefits that are provided for or made applicable to a Los Angeles County employee having an equal period of service.

SEC. 10 Section 72705 of the Government Code is amended to read

72705. Whenever reference to a numbered salary schedule is made in any section of this article, the schedule found in the Salary Ordinance of the County of Los Angeles shall apply.

(a) Any deputy clerk of grade I classification who is regularly required to work on Saturdays and Sundays, or any deputy clerk who is required regularly to work a night shift shall receive a one-step increase in basic compensation. A night shift is a tour of duty which commences after 2 p.m. and prior to 6 a.m

(b) Not more than 19 deputy clerks grade IV, while assigned to duties in divisions of the court requiring greater skill and responsibility, and, at each branch court of three or more divisions, one deputy clerk grade III assigned to supervise not less than 15 deputy clerks shall receive compensation at the rate of the next higher numbered salary schedule which will increase such basic compensation by one step, provided that such branch court or division in said branch shall not have more than two such deputy clerk positions compensated at the next higher schedule at any one time

(c) Unless otherwise specifically provided, each person appointed to a position set forth in Sections 72702, 72702.5, 72703, 72704, 72704.5, 72717, and 72717 5 shall, be entitled to the same rights, privileges and benefits allowed Los Angeles County employees as provided in Chapter 1 of Ordinance 6222 of the County of Los Angeles. Any person appointed, promoted, or demoted to another office or position in such service, shall be compensated at the schedule provided for said appointment, promotion, or demotion in Chapter 1 of Ordinance 6222.

SEC. 11. Section 72717 of the Government Code is amended to read

72717 The Judges of the Municipal Courts of Los Angeles County may appoint one chief program analyst, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 64C.

SEC. 12. Section 72717.5 of the Government Code is amended to read·

72717 5 The chief program analyst, municipal courts, may

appoint:

(a) Five program analysts I, municipal courts, each of whom shall receive a monthly salary at a rate specified in Schedule 55B.

(b) The chief program analyst, municipal courts, may also appoint

(1) One stenographic secretary, municipal courts, who shall receive a monthly salary of one thousand three hundred eighty-seven dollars and sixteen cents ($1,387 16). Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be at a rate specified in Schedule 29H.

(2) One senior stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 29H.

(3) One stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 25H, but in no event less than step 3

(4) Fifteen legal research assistants, each of whom shall receive compensation at the rate of five dollars and nineteen cents ($5.19) per hour

SEC. 13. Section 72718 of the Government Code is repealed.

SEC. 14. Section 72718.1 of the Government Code is repealed.

SEC. 15. Section 72718.2 of the Government Code is repealed.

SEC 16 Section 72750.5 of the Government Code is amended to read·

72750.5. In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed and compensated as follows·

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 59E.

The clerk may appoint·

(a) Eleven deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointment to said positions shall be at step 3 of said schedule.

(b) Thirteen deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E.

(e) One deputy clerk, judicial secretary, who shall receive a monthly salary at a rate specified in Schedule 29H. Appointment to such position shall be at step 3 of such schedule.

(f) One chief clerk—administrative services, who shall receive a monthly salary at a rate specified in Schedule 46E.

(g) One jury secretary who shall receive a monthly salary at a rate specified in Schedule 46E.

(h) One chief clerk—civil, who shall receive a monthly salary at

a rate specified in Schedule 46E.

(i) One chief clerk—criminal, who shall receive a monthly salary at a rate specified in Schedule 46E.

(j) One chief clerk—traffic, who shall receive a monthly salary at a rate specified in Schedule 46E.

(k) One occupant of chief clerk position as set forth in this section shall be designated by the clerk-administrative officer as assistant clerk-administrative officer and shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 17. Section 72751 of the Government Code is amended to read:

72751 In each municipal court district having six judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 57E.

The clerk may appoint:

(a) Ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointment to said positions shall be at step 3 of said schedule.

(b) Twelve deputy clerks grade II each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(d) Eight deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 18 Section 72751.1 of the Government Code is amended to read:

72751.1. In each municipal court district having five judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 56E.

The clerk may appoint:

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Nine deputy clerks grade III, each of whom shall receive a

monthly salary at a rate specified in Schedule 25D.

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC. 19 Section 72751.5 of the Government Code is amended to read

72751 5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed and compensated as follows.

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 56E.

The clerk may appoint·

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC 20 Section 72752 of the Government Code is amended to read

72752. In each municipal court district having three judges authorized by law the officers and attachés shall be appointed and compensated as follows

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 55E.

The clerk may appoint·

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to said positions shall be at step 3 of said schedule

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC 21 Section 72753 of the Government Code is amended to read

72753 In each municipal court district having two judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 55E

The clerk may appoint.

(a) Six deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to said positions shall be at step 3 of said schedule.

(b) Eight deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Six deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC 22 Section 72754 of the Government Code is amended to read·

72754. In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows

There shall be one clerk-administrative officer appointed by the judge of the court, who shall receive a monthly salary at a rate specified in Schedule 53E.

The clerk may appoint

(a) Two deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 16B. Appointments to said positions shall be at step 3 of said schedule

(b) Three deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 19E.

(c) Two deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 25D.

(d) Two deputy clerks grade IV, plus one additional such deputy

clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 41E; provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

SEC. 23. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to carry out the program specified in this act.

CHAPTER 1403

An act to amend Sections 14020, 84301, and 84850 of, and to add Section 78035 to, the Education Code, relating to school finance, and making an appropriation therefor.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978.]

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

SECTION 1 Section 14020 of the Education Code is amended to read:

14020. (a) The State Controller shall during each fiscal year transfer from the General Fund of the state to that portion of the State School Fund restricted for community college purposes, hereinafter called Section B of the State School Fund, such sums, in addition to the sums accruing from other sources, as shall provide in Section B of the State School Fund for apportionment during the fiscal year a total amount per pupil in average daily attendance during the preceeding fiscal year credited to all community colleges and adult schools maintained in conjunction with community colleges in the state, as certified by the Chancellor of the California Community Colleges, of one hundred eighty dollars ($180).

(b) The Controller shall also transfer, as needed during each fiscal year, such additional amounts from the General Fund to Section B of the State School Fund as are certified from time to time by the Chancellor of the California Community Colleges to be necessary to meet actual computed apportionments from the State School Fund for the purposes set forth in Section 84300; provided that the total of such additional amounts transferred in a fiscal year shall not exceed, except pursuant to subdivision (c) of this section, four hundred thirty-four dollars and four cents ($434.04) for the 1978–79 fiscal year, per pupil in average daily attendance during the preceding fiscal

year credited to all community colleges in the state, as certified by the Chancellor of the California Community Colleges. Beginning in fiscal year 1979–80, the dollar amount in this subdivision shall be increased annually by 6 percent over the amount applicable for the preceding fiscal year.

(c) In addition to the amounts authorized to be transferred to Section B of the State School Fund from the General Fund under subdivisions (a) and (b) of this section, the Controller shall transfer from the General Fund to Section B of the State School Fund during each fiscal year, commencing with 1977–78, upon certification of the Chancellor of the California Community Colleges, an amount sufficient to increase state apportionments as required pursuant to Sections 84764 and 84765.

(d) In addition to the amounts authorized to be transferred to Section B of the State School Fund from the General Fund under subdivisions (a) and (b) of this section, the Controller shall transfer from the General Fund to Section B of the State School Fund during the fiscal year, upon certification of the Chancellor of the California Community Colleges, if necessary to meet actual computed apportionments for the fiscal year for the purposes set forth in Section 84300, an amount not to exceed 1 percent of the total apportionment from Section B of the State School Fund in the preceding fiscal year for the purposes set forth in Section 84300.

(e) He shall also transfer to Section B of the State School Fund any additional amounts appropriated thereto by the Legislature in augmentation of any of the amounts prescribed for any of the purposes set forth in Section 84300 and such additional amounts shall be allowed and apportioned by the Chancellor of the California Community Colleges and warrants therefor drawn by the Controller in the manner provided in Article 1 (commencing with Section 14000) and Article 2 (commencing with Section 14040) of Chapter 1 of Part 9 of this division, and Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of Title 2, and in Sections 41050, 46304, and 84503, and Article 1 (commencing with Section 41600) of Chapter 4 of Part 24 of Division 3 of Title 2.

SEC 2. Section 84301 of the Education Code is amended to read:

84301. The amount transferred to Section B of the State School Fund pursuant to subdivision (b) of Section 14030 shall be expended in accordance with the following schedule:

(a) Four hundred twenty-one dollars and eighty-five cents ($421 85) multiplied by the total average daily attendance credited to community college districts during the preceding fiscal year for basic aid and equalization aid to be apportioned to community college districts on account of average daily attendance. This amount shall be increased by the amount necessary to equalize the total expenditures from this section to the transfers from the General Fund to the State School Fund required by subdivisions (b), (c), (d), and (e) of Section 14020.

(b) Twelve dollars and nineteen cents ($12 19) multiplied by the

average daily attendance during the 1977–78 school year credited for purposes of state apportionments to all community college districts for the purpose of Article 11 (commencing with Section 84850) of Chapter 5 of this part.

(c) Beginning in fiscal year 1979–80, the dollar amount in subdivision (b) shall be increased annually by 6 percent over the amount applicable for the preceding fiscal year.

SEC. 3 Section 84850 of the Education Code is amended to read:

84850. (a) The Chancellor of the California Community Colleges shall apportion to each community college district for the purpose of funding the excess direct district cost of providing special facilities, special educational material, educational assistance, mobility assistance, transportation, program accountability, and program developmental services for handicapped students enrolled at a community college as defined in Section 78014, who have demonstrated a need for such services, an amount not exceeding seven hundred eighty-five dollars ($785) in each fiscal year for each such handicapped student.

(b) The Board of Governors of the California Community Colleges shall adopt rules and regulations for determining program and service components and appropriation of resources to community college districts pursuant to Section 78014. Such rules and regulations shall be based upon guidelines, developed and approved by both the chancellor and the Director of Rehabilitation after public hearings, and shall be appropriate to the educational needs of handicapped students enrolled at a community college.

The chancellor and the Director of Rehabilitation shall incorporate suggestions from other interested persons and organizations in the guidelines where feasible and appropriate.

If the chancellor and the Director of Rehabilitation are unable to agree upon any portion or portions of the guidelines, each may submit guidelines to the board of governors, which may base the rules and regulations which it adopts on any combination of guidelines submitted.

(c) Each community college district receiving an allowance under this section shall report to the chancellor on forms and at such times as he shall provide, all expenditures and incomes related to handicapped students for whom such allowances are made. If the chancellor determines that the current expense of educating such students does not equal or exceed the sum of basic state aid and state equalization aid provided in the regular community college foundation program per unit of average daily attendance, the allowance provided under this section and any amount of local tax funds contributed to the foundation program for each such handicapped student in average daily attendance in the district, then the amount of such deficiency shall be withheld from state apportionments to the district in the succeeding fiscal year in accordance with the procedure prescribed in Section 84330.

(d) The chancellor and the Director of Rehabilitation shall review

programs for handicapped students funded pursuant to this section and shall report, jointly or separately, their findings and recommendations to the Legislature not later than February 15, 1978. The report shall include recommendations relative to appropriate levels of support for programs and services for handicapped students and further improvements in funding procedures.

(e) Notwithstanding subdivision (a), the chancellor may, upon recommendation of the Director of Rehabilitation, allocate amounts up to three times the amount authorized in subdivision (a) to provide for excess costs of educational services for severely disabled students as defined pursuant to subdivision (c) of Section 78014; provided, however, that any allocations made pursuant to this subdivision (e) shall not result in an increase in the total amount of funds allocated pursuant to this section. Allocations in excess of seven hundred eighty-five dollars ($785) per student shall be provided only to programs identified by the chancellor and the Director of Rehabilitation in accordance with rules and regulations adopted pursuant to subdivision (b).

(f) In the event that requests for apportionments exceed the amount of state funds statutorily available, the chancellor shall apportion the statutorily available funds among community college districts applying for such funds in accordance with guidelines established and approved by the chancellor and the Director of Rehabilitation pursuant to this section. State apportionments shall be made only to districts which certify that all appropriate federal and local funds available for programs for handicapped students are being utilized.

(g) The chancellor's office and the Department of Rehabilitation shall jointly develop guidelines governing expenditures relating to handicapped students to prevent duplication in state expenditures for such students.

SEC. 4. Section 78035 is added to the Education Code, to read:

78035. A handicapped district resident, notwithstanding any interdistrict attendance agreement or notice of restriction, shall be permitted to enroll and be admitted to a community college of another district which offers special programs or services not available in the district of residence. For purposes of tuition to be paid on account of the attendance of the student, the student shall be deemed to have been admitted pursuant to Section 78033

SEC 5 The Chancellor of the California Community Colleges shall recommend to the Legislature not later than October 1, 1979, whether or not the state should reimburse excess district costs arising from the employment of disabled classified and certificated employees.

SEC. 6. Sections 1 to 5, inclusive, of this act shall become operative on July 1, 1979.

CHAPTER 1404

An act relating to resources, and in this connection amending and supplementing the Budget Act of 1978 by adding Section 2.9D thereto, and making an appropriation therefor.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 2.9D is added to the Budget Act of 1978, to read:

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

Sec. 2.9D. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning and working drawings shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

CAPITAL OUTLAY

RESOURCES

Reversion

516D—The unencumbered balance of the appropriation made by the following item shall revert to the unappropriated balance of the State, Urban, and Coastal Park Fund:

(a) Department of Parks and Recreation:

(1) Item 443(k), Budget Act of 1977, Trinidad Bay—acquisition.

SEC. 2. (a) The Legislature hereby finds and declares that the restoration and preservation of coastal resources at Trinidad Bay in the County of Humboldt, including the protection of certain archaeological sites and the assurance of public access to the coast, serve public purposes and that the Humboldt North Coast Land Trust, Inc., a California nonprofit corporation, is an entity appropriately organized to restore and preserve such resources on behalf of the state and for the benefit of the people of the state.

(b) Notwithstanding the provisions of Sections 31201, 31206, 31207, and 31208 of the Public Resources Code, the State Coastal Conservancy may grant to the Humboldt North Coast Land Trust, Inc , not more than one hundred thousand dollars ($100,000) of the funds appropriated in Item 520.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978). The grant funds may be expended solely for the acquisition of the fee or a lesser interest in lands at Trinidad Bay for the restoration and preservation of coastal resources, including the protection of archaeological sites associated with the Tsurai village and natural features of significant public value and the assurance of adequate public access to the coast. No funds may be granted unless the land trust enters into an agreement with the conservancy, on such terms and conditions as the conservancy specifies, requiring the land trust to provide public access to the coast, to protect the archaeological sites and other features, to maintain records of all financial transactions, and to provide for public participation in decisions of the land trust by deeming the land trust to be a local agency for the purposes of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code). The agreement shall provide that the purchase price of any interest in land acquired by the land trust may not exceed fair market value, as established by an appraisal approved by the conservancy; that the conservancy shall approve the terms under which any interest in land is acquired by the land trust; and that no interest in land acquired by the land trust may be used as security for any debt to be incurred by the land trust unless the conservancy approves the transaction. The agreement shall also specify which of its terms and conditions are essential and shall provide that, if any essential term or condition is violated or if the existence of the land trust is terminated for any reason, title to all interests in real property acquired by the land trust with state funds shall immediately vest in the state.

(c) The grant made pursuant to this section shall be deemed a grant satisfying the requirements of Section 31200 of the Public Resources Code Notwithstanding the proviso to Item 520.1 of the Budget Act of 1978, approval or certification of this grant by the California Coastal Commission shall not be required.

CHAPTER 1405

An act to amend Section 70135 of the Government Code, relating to courts

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 70135 of the Government Code is amended to read

70135 In order to help defray the costs of reporting services, in addition to fees required by other laws for the filing of the first paper in a civil action or special proceeding, there shall be an additional charge of fourteen dollars and fifty cents ($14.50).

Except as to papers filed by the County of Marin, the Marin County Flood Control and Water Conservation District, and the Marin County Transit District, such fee shall not be subject to the provisions of Section 6103

CHAPTER 1406

An act to amend Sections 74692, 74693, and 74693.1 of, and to add Sections 74693 2, 74693.3, and 74695 to, and to repeal Section 74693.2 of, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 74692 of the Government Code is amended to read:

74692. There shall be one clerk of the municipal court who shall receive a salary at the rate specified in range AB of the salary schedule

SEC. 2. Section 74693 of the Government Code is amended to read:

74693. The clerk may appoint:

(a) One assistant clerk of the municipal court, who shall receive a salary at the rate specified in range N4 of the salary schedule.

(b) Two deputy court clerks, grade IV, who shall receive a salary at the rate specified in range 45 of the salary schedule.

(c) Twelve deputy court clerks, grade III, who shall receive a salary at the rate specified in range 40 of the salary schedule.

(d) Eighteen deputy court clerks each of whom shall be either grade I or grade II Grade II deputy clerks shall receive a salary at the rate specified in range 32 of the salary schedule. Grade I deputy clerks shall receive a salary at the rate specified in range 27 of the schedule.

(e) One typist-clerk, either grade I or grade II. A grade I typist clerk shall receive a salary at the rate specified in range 24 of the salary schedule. A grade II typist-clerk shall receive a salary at the rate specified in range 27 of the salary schedule.

(f) Two account clerks, grade III, who shall receive a salary at the

rate specified in range 33 of the salary schedule.

(g) Two court interpreters, who shall receive a salary at the rate specified in range 32 of the salary schedule.

SEC. 3. Section 74693.1 of the Government Code is amended to read:

74693.1. Whenever reference to a numbered salary range is made in any section of this article, the schedule of salaries adopted by resolution No. 279-75, as amended, of the Board of Supervisors of Santa Cruz County, shall apply.

Unless otherwise specifically provided, each person appointed to a position, the compensation of which is fixed by reference to a salary range incorporated by this section, shall be placed in the step of the specified salary range and advanced in step in the specified salary range in accordance with the personnel practices of the County of Santa Cruz.

SEC. 4. Section 74693.2 of the Government Code is repealed.

SEC. 5. Section 74693.2 is added to the Government Code, to read:

74693.2 All employees of the Santa Cruz Municipal Court shall be entitled to the same provisions with respect to retirement, vacations and other benefits allowed to other employees of the county, and be subject to the personnel regulations, memoranda of understanding and the affirmative action plan of the County of Santa Cruz.

SEC. 6. Section 74693.3 is added to the Government Code, to read.

74693 3. The positions enumerated in Sections 74692 and 74693, inclusive, are deemed to be comparable in job and salary level to positions of the same title listed in the service of Santa Cruz County.

Notwithstanding any other provision of law, in the event that any class, the number of positions prescribed for any class, or the salary, benefits, personnel regulations, memoranda of understanding or affirmative action plan for any class which is shown above is modified by the civil service commission or board of supervisors, or both, a commensurate modification shall, with the approval of the presiding judge of the municipal court, be made for the comparable court class. Any adjustment made pursuant to this section shall be effective the same date as the effective date of the action applicable to the respective and comparable county class, but shall remain in effect only until January 1 of the second year in which such change is made, unless subsequently ratified by the Legislature.

SEC 7. Section 74695 is added to the Government Code, to read:

74695. Each judge of the municipal court in the County of Santa Cruz may appoint a competent phonographic reporter, pursuant to Section 72194, to be known as an official reporter of such court, and such pro tempore reporters as necessary to report the proceedings of the court Official reporters shall hold office at the pleasure of the appointing judge and shall be attachés of the court and shall receive a biweekly salary as specified in salary schedule 62 of the County of

Santa Cruz, which shall be a charge against the general fund of the county. During the hours which the courts are open for transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law. The duties of official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

SEC. 8. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Santa Cruz County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 9. In the event that Section 68515 of the Government Code as it relates to Santa Cruz County or Section 7 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, Section 7 of this act shall be void, and to this end, Section 7 of this act and Section 68515 of the Government Code as it relates to Santa Cruz County are inseverable.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act and carry out the program specified in this act.

CHAPTER 1407

An act to amend Section 318 to the Business and Professions Code, relating to the Consumer Advisory Council.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 318 of the Business and Professions Code is amended to read.

318 The Consumer Advisory Council shall recommend to the

director and to the Legislature, the enactment of such legislation as it deems necessary to protect and promote the interests of the people as consumers, and shall make such studies as it deems necessary, or as directed by the Governor, the Legislature, or the director and may render reports thereon from time to time to the people of the state.

CHAPTER 1408

An act to amend Sections 84204.2 and 84305 of, and to add Section 84215 to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1978. Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 84204.2 of the Government Code is amended to read:

84204.2. A candidate or a committee which files a preelection campaign statement or abbreviated statement and which, after the closing date of the statement, receives no contributions and makes no expenditures related to the election, may designate the statement a "final statement" and shall not be required to file any subsequent preelection or postelection statement in connection with the election if the final statement contains the following declaration signed by the candidate or the treasurer in case of a committee, or both if a consolidated statement:

"As treasurer of a committee (candidate) filing this campaign or abbreviated statement, I declare that the committee has not (I have not) and does not (do not) intend to make or receive contributions or expenditures related to this election after the closing date of this statement. If any such contributions are received or expenditures made, additional campaign or abbreviated statements will be filed as required by law. I understand that failure to file such statements will subject me to civil and criminal penalties."

For purposes of determining the period covered and the cumulative period for future statements filed by the same committee or candidate, a final statement (other than an abbreviated statement) filed under this section shall be treated as a postelection statement, provided that no audit of a final statement pursuant to Chapter 10 shall begin until the date specified in Section 90002(b).

SEC. 2 Section 84215 is added to the Government Code, to read:

84215. The commission may by regulation permit candidates and committees to file campaign statements combining preelection statements and semiannual statements.

SEC. 3. Section 84305 of the Government Code is amended to

read·

84305. No person shall make an expenditure for the purpose of sending a mass mailing unless the sender shows on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of such mailing the sender's name, street address and city in no less than six-point type. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State Section 29410 of the Elections Code shall not apply to any mass mailing which complies with this section.

SEC. 4 The amendment to Section 84305 of the Government Code effected by Section 3 of this bill shall not be construed to deprive any person or public agency of any substantial right which would have existed or hereafter exists had such amendment not been effected

SEC 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

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

In order for the provisions of this act to be in effect for the general election in November 1978, it is necessary for this act to take effect immediately

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CHAPTER 1409

An act to amend Sections 74364, 74374, and 74376 of, and to add Section 74741.5 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 74364 of the Government Code is amended to read:

74364 The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the range number provided in each subdivision from the salary schedule incorporated by Section 74343.1:

(a) One assistant marshal, Range No. 56.40. In no event shall the compensation of an assistant marshal be less than 20 percent higher than that specified for the position of captain.

(b) Three captains, Range No 52.40.

(c) Four lieutenants, Range No. 49.70. A lieutenant shall be

compensated at a biweekly rate 2½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

(d) Fourteen sergeants, Range No. 46.70. A sergeant shall be compensated at a biweekly rate 2½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

(e) One hundred twenty-seven deputy marshals, II, Range No. 42.70, except that a deputy marshal shall be compensated at a biweekly rate 5 percent higher than prescribed in this subdivision when in possession of a basic peace officers standards and training certificate; 10 percent higher than prescribed in this subdivision when in possession of an intermediate peace officer standards and training certificate; and 12½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

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

Upon the occurrence of a vacancy in the position of deputy marshal II the marshal may, as the case may be, replace said position with a deputy marshal II or with a position to be designated as deputy marshal I. Provided, however, that no more than 36 positions of deputy marshal I shall be appointed. A deputy marshal I shall receive biweekly compensation which shall be 85 percent of that received by a deputy marshal II at a comparable level of status.

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

Upon the effective date of this act each person who is in a deputy marshal position shall succeed to a deputy marshal II position without further examination or qualification.

Upon the occurrence of a vacancy in the position of deputy marshal II which occurs after 36 deputy marshal I positions have been appointed the marshal may, at his discretion, elevate a person in a deputy marshal I position to a position of deputy marshal II. Said elevation in position may be made without further examination or qualification.

Provided, however, that upon the completion of two years' service in the position of deputy marshal I a person may be reclassified by the marshal to a position of deputy marshal II whether or not a vacancy may exist in the deputy marshal II positions. Such reclassification shall be at the marshal's discretion.

(f) Two senior stenographers, Range No. 36.70.

(g) One administrative assistant III or II, Range No. 50.50 or Range No 48 42, as the case may be.

(h) Twelve intermediate typists, Range No. 33.00.

(i) Three senior typists, Range No. 36.50.

(j) Four deputy marshal-cadets, Range No 33.40; provided, however, that in no event shall the deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal II and in the event of an upward adjustment in the salary of deputy marshals II, the salary of deputy marshal-cadets shall be adjusted accordingly. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal I, providing such a position is open, without further qualification or examination.

(k) One supervising clerk, Range No. 40.00.

(*l*) Three junior typists, Range No. 28.70.

(m) One secretary II, Range No. 37.36.

(n) Four legal procedures clerks II, Range No. 39.50.

(o) Ten legal procedures clerks I, Range No. 37.50.

(p) Every person specified in subdivision (f), (h), (i), (k), (*l*), (m), (n), or (o) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. "Night shift" means an assigned work schedule of which not less than one-half of the total number of hours, plus one-half hour, are worked after 5 p m. and before 8 a.m.

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

(r) One principal clerk, Range No. 42.58.

SEC 2. Section 74374 of the Government Code is amended to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of the municipal courts in San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be adjusted to commensurate number of ranges in the salary schedule. Each of such adjustments shall not be more than 20 percent. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective only until January 1, 1982.

The equivalent classifications are as follows:

Municipal court marshal classification	County classification
Assistant marshal	Deputy sheriff-inspector
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal II	Deputy sheriff
Senior stenographer	Senior stenographer
Senior typist	Senior clerk typist
Intermediate typist	Intermediate clerk typist
Cadet	Deputy sheriff-cadet
Supervising clerk	Supervising clerk
Junior typist	Junior typist
Secretary II	Secretary II
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Principal clerk	Principal clerk
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I

Notwithstanding the salary ranges specified in Section 74364, the persons occupying positions in the above specified municipal court marshal classifications shall not be paid less salary than persons occupying positions in equivalent county classifications. In no event shall a deputy marshal II receive less salary than that received by a deputy sheriff in the highest classification designated for deputy sheriffs by the County of San Diego. A change in title or designation for the position of top level deputy sheriff shall not affect the parity to this level granted to a deputy marshal II.

SEC. 3. Section 74376 of the Government Code is amended to read:

74376. In the event that the number of judges provided for any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, the marshal of the municipal courts at his discretion may appoint one deputy marshal, I or a deputy marshal II and one intermediate typist, each of whom shall receive compensation as specified for their respective classifications, for each additional judge appointed or elected.

SEC. 4. Section 74741.5 is added to the Government Code, to read:

74741.5. A traffic referee appointed pursuant to Section 72400 shall, upon recommendation of a majority of the judges of the South Bay Judicial District and with the concurrence of the board of supervisors, receive a salary equal to 75 percent of the salary of a judge of the municipal court

The traffic referee may be assigned by the presiding judge to sit

temporarily in any judicial district in the County of San Diego. During such temporary assignment, the traffic referee shall remain an employee of the South Bay Judicial District.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1410

An act to amend Sections 73101, 73101.5, 73107, 73110, 73113, 73113.5, 73114, 73115, and 73122 of the Government Code, relating to the San Bernardino County Municipal Court District.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 73101 of the Government Code is amended to read:

73101. The San Bernardino County Municipal Court District shall consist of the following divisions, embracing that territory which is within the following judicial districts in the County of San Bernardino on the date specified, and as such divisions are thereafter modified by the board of supervisors or operation of law.

(a) On November 8, 1967:

(1) East Division—that territory within the Redlands Judicial District.

(2) Central Division—that territory within the San Bernardino Judicial District

(3) Valley Division—that territory within the Fontana and Rialto Judicial Districts

(4) West Valley Division—that territory within the West Valley Municipal Court District.

(5) Victorville Division—that territory within the Victor Judicial District.

(b) On August 5, 1973:

(1) Barstow Division—that territory within the Barstow and Yermo-Belleville Judicial Districts.

(c) On November 26, 1973:

(1) Chino Division—that territory within the Chino Judicial District

(d) On March 5, 1978:

(1) Rancho Cucamonga Division—that territory within the Cucamonga-Etiwanda Judicial District.

SEC 2 Section 73101 5 of the Government Code is amended to read

73101.5. There shall be the following number of judges in divisions of the San Bernardino County Municipal Court District: in the East Division, one; in the Central Division, four; in the Valley Division, two; in the West Valley Division, four; in the Victorville Division, two; in the Barstow Division, one; in the Chino Division, one; and in the Rancho Cucamonga Division, one.

SEC 3. Section 73107 of the Government Code is amended to read

73107. There shall be one clerk of the San Bernardino County Municipal Court District to be known as the municipal court administrator who shall be appointed by a majority vote of the council of supervising judges from among applicants certified to such council on the basis of a competitive examination pursuant to personnel rules and regulations of the County of San Bernardino. He shall receive a salary at a rate specified in range 96 of the salary schedule effective on January 1, 1978. He shall be the appointing power for those positions listed in Section 73113.

SEC. 4. Section 73110 of the Government Code is amended to read·

73110 There shall be one marshal of the San Bernardino County Municipal Court District who shall be appointed by, and serve at the pleasure of, a majority of the council of supervising judges and who shall receive a salary at a rate specified in range 94 of the salary schedule effective on January 1, 1978. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal

SEC 5 Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113 5 which constitutes the compensation for each job classification are as follows:

Appointed by the Municipal Court Adminstrator

Job classification	Number	Salary range 4/8/78
Assistant municipal court administrator	1	85
Clerk of the municipal court II	2	82
Clerk of the municipal court I	6	78
Data Processing Analyst	1	77
Assistant clerk of the municipal court II	2	74
Municipal court chief clerk	3	67
Assistant clerk of the		

municipal court I	2	64
Municipal court clerk II	22	63
Municipal court clerk I	1	57
Secretary I	1	57
Clerk IV	4	57
Account clerk II	5	55
Account clerk III	2	59
Clerk III	25	54
Clerk II	40	48
Clerk I	3	44

Appointed by the Marshal

	Number	Salary range 4/8/78
Marshal's captain	2	85
Marshal's lieutenant	1	82
Marshal's sergeant	7	79
Deputy marshal	46	69
Administrative clerk I	1	60
Marshal's clerk II	9	55
Marshal's clerk I	8	50

The marshal shall also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

SEC. 6. Section 73113.5 of the Government Code is amended to read:

73113.5. Whenever reference is made to a numbered salary range in any section of this chapter, the salary schedule found in the salary ordinance of San Bernardino County in effect on July 2, 1977, shall apply.

Administration of the salary plan provided by this chapter, including the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, obligations and benefits and all other relevant matters, shall be in accordance with the current personnel rules and ordinances of the County of San Bernardino.

Notwithstanding any other provisions of law, the salary and classifications of municipal court employees provided by Sections 73107, 73110, 73113, 73114, 73122, and this section may be increased or decreased within the range limits of the salary schedule incorporated by reference by this section in order to provide classification and compensation that is comparable to county employees of similar qualifications and experience in the classified service of San Bernardino County as such comparability is determined by the board of supervisors. Any salary increases granted

or reclassifications made pursuant to this paragraph shall be effective only until January 1, 1980.

SEC. 7. Section 73114 of the Government Code is amended to read:

73114. By order entered in the minutes of the court, a majority of the supervising judges may appoint up to three secretaries as the business of the court requires, to be classified as secretary II. Each shall receive a salary at a rate specified in range 60 of the salary schedule effective on April 8, 1978, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 8. Section 73115 of the Government Code is amended to read:

73115. In the event the board of supervisors creates any new divisions or modifies any divisions established hereby pursuant to the provisions of Section 73102, the number, classification, and compensation of additional municipal court personnel necessitated thereby shall be governed by the provisions of Article 3 (commencing with Section 71080) of Chapter 6 and Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 of this code.

SEC. 9 Section 73122 of the Government Code is amended to read:

73122. By majority vote, the council of supervising judges may appoint one supervising own-recognizance officer who shall receive a salary at a rate specified in range 75 of the salary schedule effective on April 8, 1978, and three own-recognizance investigators who shall receive a salary at a rate specified in range 72 of the salary schedule effective on April 8, 1978, and be otherwise subject to the salary plan provided by Section 73113.5. Any such appointment shall not be operative until approved by a majority vote of a committee composed of one representative of the council of supervising judges, one representative of the superior court judges of the county, and one representative of the county sheriff.

SEC. 10 It is the intent of the Legislature in enacting Section 1 of this act to conform the San Bernardino County Municipal Court District to the divisions of such district as previously modified by Ordinance No. 2118 of the Board of Supervisors of San Bernardino County, and to continue the Trona Judicial District without interruption in the existence of such district, and without affect or interruption in tenure, service, duties or responsibilities of the justice or any official or employee of such district.

It is also the intention of the Legislature to recognize the authority of the Board of Supervisors of San Bernardino County to exclude pursuant to law the Trona Judicial District from the Barstow Division of the San Bernardino County Municipal Court District; and that nothing in Section 1 of this act shall be construed to affect such authority over the modification of the San Bernardino County Municipal Court District or the creation, modification, or enlargement of divisions in such district.

SEC 11 Notwithstanding Section 2231 of the Revenue and

Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 1411

An act to amend Sections 90001, 90002, 91000, and 91011 of the Government Code, relating to the Political Reform Act of 1974.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 90001 of the Government Code is amended to read:

90001. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbyist required to register or file with the Secretary of State, except that if the commission determines from an audit report that a lobbyist is in substantial compliance with the provisions of the act, the lobbyist thereafter shall be subject to an audit on a random basis with each such lobbyist having a 25-percent chance of being audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars ($25,000) or more in contributions have been raised or twenty-five thousand dollars ($25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars ($25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars ($15,000) or more in contributions have been received or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 50 percent of the Senate districts, 50 percent of the Assembly districts and 50 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars ($15,000) or more in contributions have been raised or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited and each committee primarily supporting such a candidate.

(f) Each committee (other than a committee specified in Section 82013 (c)) whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars ($10,000) on such measure or measures during any calendar year.

(g) Each committee, other than a committee specified in subdivision (e) or (f) or Section 82013(c), if it is determined that the committee has expended more than ten thousand dollars ($10,000) supporting or opposing state candidates or state measures during any calendar year, shall be subject to audit by a random selection of 50 percent of such committees.

(h) In accordance with subdivisions (a), (b), (c), and (g), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits such selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbyist audits, such selection shall be made in public annually.

SEC. 2 Section 90002 of the Government Code is amended to read: –

90002 (a) Audits and investigations of lobbyists shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) No audit or investigation of any candidate or committee in connection with a report or statement required by Chapter 4 of this title, other than a report or statement required by Section 84206, shall begin until after the last date for filing the first report or statement following the general or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of candidates or committees supporting candidates who were defeated in the primary election and who are not required to file statements in connection with the general election may begin after the last date for filing the first report or statement following the primary election When the campaign statements of a candidate or a committee supporting a candidate are audited and investigated, the audit and investigation shall cover all campaign statements filed in connection with the primary and general or special elections and any previous campaign statement filed pursuant to Section 84206 since the last

campaign statement filed in connection with an election.

SEC. 3. Section 91000 of the Government Code is amended to read:

91000. (a) Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.

(b) In addition to other penalties provided by law, a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

(c) Prosecution for violation of this title must be commenced within four years after the date on which the violation occurred.

SEC. 4. Section 91011 of the Government Code is amended to read:

91011. No action shall be filed under Sections 91004 or 91005 more than four years after the first day on which a request to the civil prosecutor could be filed.

SEC. 5. The amendments to Sections 90001 and 90002 of the Government Code effected by Sections 1 and 2 of this act shall not be construed to deprive any person or public agency of any substantial right which would have existed or hereafter exists had such amendments not been effected.

SEC. 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1412

An act to amend Sections 73484, 73487, 73706, 73710, 74803, 74804, 74807, and 74807.5 of, and to repeal Article 32.1 (commencing with Section 74815) of Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978. Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 73484 of the Government Code is amended to read:

73484. There shall be one marshal who shall receive the biweekly salary specified in range 49.0 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year

following the year in which the adjustment is made, unless ratified by the Legislature

SEC. 2. Section 73487 of the Government Code is amended to read.

73487. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin:

Position	Range
(a) Deputy clerk I	31.25
(b) Deputy clerk II	33.25
(c) Deputy clerk III	35.25
(d) Deputy clerk IV	38.50
(e) Clerk	43.50
(f) Clerk-typist II	31.25
(g) Deputy Marshal	42.0

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 3. Section 73706 of the Government Code is amended to read

73706 There shall be one marshal who shall receive the biweekly salary specified in range 49.0 as set forth in the biweekly salary schedule contained in Section 73709. Whenever the salary of lieutenant in the service of the County of San Joaquin is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC 4. Section 73710 of the Government Code is amended to read·

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Chief deputy clerk	42.75
(b) Deputy clerk III	35.25
(c) Deputy clerk II	33.25
(d) Deputy clerk I	31.25
(e) Clerk	43.50
(f) Clerk-typist II	31.25
(g) Senior deputy marshal	44.25
(h) Deputy marshal	42.0

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted.

SEC. 5. Section 74803 of the Government Code is amended to read:

74803. The clerk may appoint:

(a) One deputy clerk who shall be assistant administrative officer and chief deputy.

(b) One deputy clerk V.

(c) Eleven deputy clerks IV.

(d) Six deputy clerks III.

(e) One deputy clerk III (stenographer).

(f) Two deputy clerks II (stenographer).

(g) Eight deputy clerks II.

(h) Twenty-five deputy clerks I.

SEC. 6. Section 74804 of the Government Code is amended to read:

74804. There shall be one marshal who shall receive the biweekly salary specified in range 52.0 as set forth in the biweekly salary schedule contained in Section 74806.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC. 7. Section 74807 of the Government Code is amended to read:

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	Range
(a) Deputy clerk I	31.25
(b) Deputy clerk II (stenographer)	32.75
(c) Deputy clerk II	33.25
(d) Deputy clerk III	35 25
(e) Deputy clerk III (stenographer)	35.75
(f) Deputy clerk IV	38.50
(g) Deputy clerk V	40.50
(h) Chief deputy clerk	42.75
(i) Clerk	51.50
(j) Clerk-typist II	31.25
(k) Deputy marshal	42.0
(*l*) Senior deputy marshal	44.25

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter no additional step increase shall be granted

SEC. 8. Section 74807.5 of the Government Code, as added by Chapter 112 of the Statutes of 1978, is amended to read·

74807 5 A traffic court referee in the Stockton Municipal Court District shall receive annual compensation

(a) Equal to 60 percent of the salary of a judge of the municipal court during the first year of service,

(b) Equal to 65 percent of the salary of a judge of the municipal court during the second year of service;

(c) Equal to 70 percent of the salary of a judge of the municipal court during the third year of service;

(d) Equal to 75 percent of the salary of a judge of the municipal court during and after the fourth year of service

SEC 9 Article 32 1 (commencing with Section 74815) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 10 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

13760 019534

CHAPTER 1413

An act relating to criminal trials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

The people of the State of California do enact as follows

SECTION 1 The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund in augmentation of Item 393 of the Budget Act of 1978

SEC 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are

The cost to Sutter County of the court-ordered retrial of Juan Corona is expected to be considerable. Such cost, in addition to the revenue limitations placed upon the county by Proposition 13, require that replacement revenue be obtained from the state as soon as possible in order that the fiscal affairs of the county can be managed in an orderly fashion

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CHAPTER 1414

An act to amend Section 2842 of the Business and Professions Code, relating to vocational nursing

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 2842 of the Business and Professions Code is amended to read

2842 Each member of the board shall be a citizen of the United States and a resident of the State of California Three members shall be duly licensed vocational nurses who have been licensed for a period of not less than three years prior to appointment, two members shall be licensed psychiatric technicians, each of whom shall have had not less than five years' experience in a psychiatric hospital, or in a psychiatric unit of a hospital licensed by the State Department of Health, or a private institution licensed by the State Department of Health, one member shall be a licensed vocational nurse or registered nurse who shall have had not less than five years' experience as a teacher or administrator in an accredited school of

vocational nursing; and five members shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.

No person may serve as a member of the board for more than two consecutive terms.

Per diem and expenses of members of the board who are certified psychiatric technicians shall be paid solely from revenues received pursuant to the provisions of Chapter 10 (commencing with Section 4500) of Division 2.

CHAPTER 1415

An act relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. The Department of Transportation may acquire, pursuant to Chapter 13 (commencing with Section 2540) of Division 3 of the Streets and Highways Code, that portion of the Alla Branch abandoned by the Southern Pacific Transportation Company between Culver Boulevard and the terminus in the City of Los Angeles for the following purposes:

(a) That portion from Culver Boulevard to Lincoln Boulevard for bikeway purposes

(b) That portion from Lincoln Boulevard to Washington Street for public transportation purposes

(c) The remaining portion from Washington Street to the terminus in the City of Los Angeles to be sold to state and local agencies for such purposes to facilitate development of the Los Angeles City Community Plan.

The department may enter into a joint powers agreement with the County of Los Angeles and other public agencies to acquire such property.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the Department of Transportation may have the specific authority to purchase that portion of the Alla Branch abandoned by the Southern Pacific Transportation Company as soon as possible so that the department may purchase the property at the lowest possible price, it is necessary that this act take effect immediately.

CHAPTER 1416

An act to amend Section 9116 of, to add Section 9220.5 to, and to add Section 9161.5 of, and to repeal Chapter 17.5 (commencing with Section 9100) of Division 3 of, the Business and Professions Code, relating to registered construction inspectors.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 9116 of the Business and Professions Code is amended to read

9116 The terms of the members first appointed shall expire as follows three on June 1, 1975; three on June 1, 1976; three on June 1, 1977, and three on June 1, 1978. Appointments thereafter shall be for four-year terms Vacancies shall be filled by appointment for the unexpired term Each member, including the original members appointed in 1974, shall continue in office until the appointment of his successor No member shall serve more than two consecutive terms

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy occurring in the office of a member who is not a public member

SEC 2. Section 9161.5 is added to the Business and Professions Code, to read

9161.5 At any time before or on December 31, 1979, an authorization to engage in the functions of a registered construction inspector and to use the title "registered construction inspector" may be issued to any person, upon application and payment of the fee prescribed in this chapter, who meets all the requirements to be examined

Requirements for either registration by qualification or by examination shall conform to Section 9127.

The authorization issued pursuant to this section shall be valid only until, and including, December 31, 1981. Thereafter, persons issued such authorization shall only be authorized to engage in the functions of a registered construction inspector, and to use the title "registered construction inspector" if they have taken and passed the registration examination

Any person to whom an authorization is issued pursuant to this section who then takes, but fails to pass, the registration examination shall no longer be authorized pursuant to this section, and any such authorization shall be revoked

SEC 3 Section 9220 5 is added to the Business and Professions Code, to read

9220 5 (a) The board may make refunds to those applicants who,

having been accepted to take an examination, were not given an examination by the board due to failure of the board to conduct an examination

(b) Funds held on the effective date of this subdivision by the State Treasurer in the Construction Inspectors Registration Board Fund for the account of the Construction Inspectors Board shall be released for the board's use

SEC. 4. Chapter 17.5 (commencing with Section 9100) of Division 3 of the Business and Professions Code is repealed.

SEC. 5. Section 4 of this act shall become operative on July 1, 1981, unless a later enacted statute deletes or extends such date

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CHAPTER 1417

An act to amend Sections 74905, 74906, 74907, 74908, 74909, and 74912 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978. Filed with Secretary of State October 1, 1978.]

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

SECTION 1. Section 74905 of the Government Code is amended to read:

74905. (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation from two thousand dollars ($2,000) to three thousand one hundred dollars ($3,100).

(b) There shall be one assistant court executive officer and assistant clerk of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The assistant court executive officer and assistant clerk shall receive the monthly compensation from one thousand five hundred dollars ($1,500) to two thousand four hundred dollars ($2,400).

(c) The rate of monthly compensation to be paid to the court executive officer and the assistant court executive officer and assistant clerk within the compensation ranges set forth in subdivisions (a) and (b) shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility.

SEC 2 Section 74906 of the Government Code is amended to read

74906 (a) There shall be one Marshal of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The marshal shall have control and supervisorial responsibility over the personnel within the

marshal's office. The marshal shall receive the monthly compensation from two thousand dollars ($2,000) to three thousand one hundred dollars ($3,100)

(b) There shall be one Assistant Marshal of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court The assistant marshal shall receive monthly compensation from one thousand nine hundred dollars ($1,900) to two thousand seven hundred dollars ($2,700).

(c) The rate of monthly compensation to be paid the marshal and assistant marshal within the compensation ranges set forth in subdivisions (a) and (b), shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility

SEC 3 Section 74907 of the Government Code is amended to read·

74907 The court executive officer may appoint the following positions which shall receive biweekly compensation specified in Section 74909:

(a) Four chief deputy municipal court clerks.
(b) Six deputy municipal court clerks IV.
(c) Sixteen deputy municipal court clerks III
(d) Twenty-two deputy municipal court clerks II.
(e) Fifteen deputy municipal court clerks I.
(f) One deputy municipal court legal process clerk.
(g) Four deputy municipal court clerk interpreters.
(h) Three municipal court secretaries
(i) One data entry operator III
(j) Three data entry operators II
(k) Two data entry operators I
(*l*) Three clerks
(m) One administrative assistant I.
(n) One accounting technician
(o) One senior microfilm technician.

SEC 4 Section 74908 of the Government Code is amended to read:

74908 The Marshal of the Ventura County Municipal Court may appoint the following positions which shall receive biweekly compensation specified in Section 74909

(a) Two lieutenants.
(b) Four sergeants.
(c) Thirty-five deputy marshals.
(d) Five senior marshal's process clerks
(e) Two marshal's process clerks
(f) One senior secretary
(g) Two marshal's radio dispatchers
(h) Such deputies who shall be keepers as may be reasonably required pursuant to law at the fee allowed by law for keeping property

The occupants of positions of senior marshal's process clerk and

marshal's process clerk shall, when required, be assigned to additional duties as matron, and during the period of such assignment shall receive additional compensation

SEC 5. Section 74909 of the Government Code is amended to read·

74909. (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura, shall apply to the personnel of the Ventura County Municipal Court.

Municipal court classification	Biweekly rate
Chief deputy municipal court clerk	$574.46–741.11
Deputy municipal court clerk IV	460.00–592.80
Deputy municipal court clerk III	416 80–536.80
Deputy municipal court clerk II	360.80–464.00
Deputy municipal court clerk I	301.60–402.40
Deputy municipal court legal process clerk	387 20–499.20
Deputy municipal court clerk interpreter	360.80–464.00
Data entry operator III	359.20–463.20
Data entry operator II	317.60–409 60
Data entry operator I	272.00–346.40
Municipal court secretary	407.20–524.80
Clerk	257.60–343 20
Administrative assistant I	544 23–700.83
Accounting technician	472.00–608.80
Senior microfilm technician I	364.00–470.40
Municipal court/marshal classification	**Biweekly rate**
Lieutenant	$850.40–1,107.63
Sergeant	663 52–864.08
Deputy marshal	533.10–728.08
Senior secretary	387.20–499.20
Senior marshal's process clerk	387.20–499.20
Marshal's process clerk	335.20–432 00
Marshal's radio dispatcher	360.80–464.80

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC 6. Section 74912 of the Government Code is amended to read

74912 (a) Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. Such adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications

in the Ventura County service Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made Classifications deemed to be equivalent are as follows:

Municipal court classification	County classification
Chief deputy municipal court clerk	Chief superior court clerk
Deputy municipal court clerk IV	Superior court clerk IV
Deputy municipal court clerk III	Superior court clerk III
Deputy municipal court clerk II	Superior court clerk II
Deputy municipal court clerk I	Superior court clerk I
Deputy municipal court legal process clerk	Legal process clerk
Data entry operator III	Data entry operator III
Data entry operator II	Data entry operator II
Data entry operator I	Data entry operator I
Municipal court secretary	Superior court secretary
Clerk	Clerk
Administrative assistant I	Administrative assistant I
Accounting technician	Accounting technician
Senior microfilm technician	Senior microfilm technician

Municipal court/marshal classification	County classification
Lieutenant	Sheriff's lieutenant
Sergeant	Sheriff's sergeant
Deputy marshal	Deputy sheriff
Senior secretary	Senior secretary
Senior marshal's process clerk	Legal process clerk
Marshal's process clerk	Civil process clerk
Marshal's radio dispatcher	Radio dispatcher

In order to carry out the intent of Section 74912 herein, whenever the salary of the class of deputy municipal court clerk I is adjusted as described above, the salary of deputy municipal court clerk interpreter shall be adjusted an equivalent number of ranges or steps as necessary on the schedule

SEC 7 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act

CHAPTER 1418

An act to amend Section 70044 5 of the Government Code, relating to court reporters

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 70044.5 of the Government Code is amended to read

70044 5 In San Mateo County, official reporters shall be appointed by the judges of the court pursuant to the provisions of Section 70043 and shall serve at the pleasure of the judges.

(a) The biweekly salary of each regular official reporter for the performance of duties required of each such reporter by law shall be based on a five-step salary schedule as follows·

Step A	$700 80
Step B	$740 80
Step C	$783 20
Step D	$828.80
Step E	$876 00

At the time each reporter is hired, the salary of that reporter shall be fixed in the same manner as provided for classified employees of the county under the authority of the county charter A step advancement from step A to step B may be granted on the first day of the pay period following the completion of 26 full weeks of service in the position A person may advance to steps C, D, and E upon completion of successive 52-week periods of service All merit increases as provided herein shall be made at the determination of the judges of the court

In addition to new employees, the salaries herein provided for shall be applicable to regular official reporters employed by such county on the effective date of this section and for the purpose of determining the salaries to be paid after this section becomes effective, all years of service rendered by such reporters to such county prior to the effective date of this section shall be counted in determining the salary to which they are entitled under the salary schedule above mentioned

The per diem compensation for pro tempore reporters shall be one-tenth of step E in the appropriate biweekly salary range established for official reporters, provided, however, that that rate of per diem compensation shall be prorated on the basis of one-half day of compensation if the pro tempore reporter renders only one-half day of service

Vacation allowances and sick leave allowances for official reporters

shall be the same as provided for classified employees of the county under the authority of the county charter.

(b) If the Board of Supervisors of San Mateo County provides by ordinance or by agreement pursuant to Chapter 10 (commencing with Section 3500), Division 4, Title 1, for a rate of compensation which is higher than that provided by subdivision (a), such higher rate of compensation shall be effective at the same time and in the same manner as other rates of pay for San Mateo County employees generally Such higher rates shall be payable by the county in the same manner and from the same funds as other salary demands against the county.

(c) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity

Each official reporter shall perform the duties required of him by law In addition, he shall render stenographic or clerical assistance, or both, to the judge or judges of the superior court as such judge or judges may direct

SEC. 2 The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting San Mateo County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties

SEC 3 If any provision of this act, or of Section 68514 of the Government Code or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable

SEC 4 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desires legislative authority to carry out the program specified in this act.

CHAPTER 1419

An act to amend Sections 682, 682a, 682 1, and 687 of the Code of Civil Procedure, and to amend Section 26725 of the Government Code, relating to writs of execution

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 682 of the Code of Civil Procedure is amended to read.

682 The writ of execution must be issued in the name of the people, sealed with the seal of the court, and subscribed by the clerk or judge, and be directed to the sheriff, constable, or marshal, or registered process server, and it must intelligibly refer to the judgment, stating the court, the county, and in municipal and justice courts, the judicial district, where the judgment is entered, and if it be for money, the amount thereof, and the amount actually due thereon, and if made payable in a specified kind of money or currency, as provided in Section 667, the execution must also state the kind of money or currency in which the judgment is payable, and must require the officer to whom it is directed to proceed substantially as follows

1 If it be against the property of the judgment debtor, it must require such officer to satisfy the judgment, with interest, out of the personal property of such debtor, or if it is against the earnings of such debtor, such levy shall be made in accordance with Section 682 3, and if sufficient personal property cannot be found, then out of his real property, or if the judgment be a lien upon real property, then out of the real property belonging to him on the day when the abstract of judgment was filed as provided in Section 674 of this code, or at any time thereafter

2. If it be against real or personal property in the hands of the personal representatives, heirs, devisees, legatees, tenants, or trustees, it must require such officer to satisfy the judgment, with interest, out of such property.

3 If it be issued on a judgment made payable in a specified kind of money or currency, as provided in Section 667, it must also require such officer to satisfy the same in the kind of money or currency in which the judgment is made payable, and such officer must refuse payment in any other kind of money or currency; and in case of levy and sale of the property of the judgment debtor, he must refuse payment from any purchaser at such sale in any other kind of money or currency than that specified in the execution. Any such officer collecting money or currency in the manner required by this chapter, must pay to the plaintiff or party entitled to recover the same, the same kind of money or currency received by him, and in

case of neglect or refusal to do so, he shall be liable on his official bond to the judgment creditor in three times the amount of the money so collected

4. If it be for the delivery of the possession of real or personal property, it must require such officer to deliver the possession of the same, describing it, to the party entitled thereto, and may at the same time require such officer to satisfy any cost, damages, rents, or profits recovered by the same judgment, out of the personal property of the person against whom it was rendered, and the value of the property for which the judgment was rendered to be specified therein if a delivery thereof cannot be had; and if sufficient personal property cannot be found, then out of the real property, as provided in the first subdivision of this section

SEC 2 Section 682a of the Code of Civil Procedure is amended to read·

682a. If the debt, credit, or other personal property sought to be levied upon is (a) any bank account, or interest therein, not standing in the name of the judgment debtor or judgment debtors or standing in the name of such judgment debtor or judgment debtors and one or more other persons who are not judgment debtors, or (b) any savings and loan association share, investment certificate, or account, or interest therein, not standing in the name of the judgment debtor or judgment debtors or standing in the name of such judgment debtor or judgment debtors and in one or more other persons who are not judgment debtors, or (c) property in a safe-deposit vault or box maintained by a bank, trust company, savings and loan association, or other corporation authorized and empowered to conduct a safe-deposit business and rented by it to a person or persons other than such judgment debtor or judgment debtors or rented by it to one or more such judgment debtors and to one or more other persons who are not judgment debtors, the following provisions of this section also shall be complied with; otherwise the levy shall not be effectual for any purpose and shall be disregarded. The plaintiff shall provide and concurrently with the levy the sheriff, constable, or marshall or registered process server shall deliver to such bank, trust company, savings and loan association, or safe-deposit corporation a bond in an amount not less than twice the amount of the judgment or twice the amount sought to be reached by such levy, if less than the amount of the judgment, indemnifying the person or persons, other than the judgment debtor or judgment debtors whose interest is sought to be levied upon, rightfully entitled to such debt, credit, or other personal property (which person or persons need not be named specifically in said bond but may be referred to generally in the same manner as in this sentence), against actual damage by reason of the taking of such debt, credit, or other personal property and assuring to such person or persons the return thereof to him or them upon proof of his or their right thereto. Upon delivery to it of the aforesaid bond such bank, trust company, savings and loan association, or safe-deposit corporation shall immediately

notify the person in whose name such account stands, other than the judgment debtor, or the person to whom such safe-deposit box is rented, other than the judgment debtor, by registered mail addressed to the last address of such person known to such bank, trust company, savings and loan association or safe-deposit corporation of the fact of the service of said writ and of the delivery to it of said bond. From the time of said levy and the delivery to it of said bond such bank, trust company, savings and loan association or safe-deposit corporation shall not honor a check or other order for the payment of money drawn against the account or other credit so levied upon, such savings and loan association shall not permit withdrawals in respect of the share, investment certificate, or account so levied upon, and such bank, trust company, savings and loan association or safe-deposit corporation shall not permit the removal of any of the contents of the safe-deposit vault or box levied upon for a period of fifteen (15) days from the mailing of said notice or until the levy is sooner released After fifteen (15) days from the making of said levy and the delivery of said bond, if no proceedings excepting to the sufficiency of the sureties have been commenced, or if such proceedings have been commenced, when the sureties have justified, said bank, trust company, savings and loan association or safe-deposit corporation shall comply with the levy, unless it has been sooner released, and shall not be liable to any person by reason of such compliance or by reason of the nonpayment of any check or other order for the payment of money drawn against the account or other credit so levied upon and presented while the levy is in force or by reason, while the levy is in force, of refusal to pay any withdrawal in respect of the share, investment certificate or account so levied upon, or by reason of the removal, pursuant to the levy, of any of the contents of such safe-deposit vault or box or by reason of the refusal of such bank, trust company, savings and loan association, or safe-deposit corporation to permit access to such safe-deposit vault or box by the renter thereof. The bond described above shall be executed by the judgment creditor or judgment creditors with two or more sufficient sureties. Exceptions to the sufficiency of the sureties may be taken by any person claiming to be the rightful owner of the debt, credit, or other personal property levied upon, in the same manner as upon an undertaking on attachment and when excepted to the sureties must justify in the same manner as upon an undertaking on attachment. The bank, trust company, savings and loan association, or safe-deposit corporation to whom any such bond is delivered shall deliver it as directed by the obligees thereof. Before giving access to any safe-deposit vault or box the bank, trust company, savings and loan association, or safe-deposit corporation may demand payment to it of all costs and expenses of opening the safe-deposit vault or box and all costs and expenses of repairing any damage to the safe-deposit vault or box caused by the opening thereof

SEC 3. Section 682 1 of the Code of Civil Procedure is amended

to read:

682.1. A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of Court)
(Number and abbreviated title of action)
The People of the State of California:
To the Sheriff, Constable or Marshal of,
or Process Server Registered in,
the _____ County of _____ Greeting:

On _____ a judgment was entered by the above entitled court in the above entitled
* action in favor of _____ as judgment creditor
* and against _____ as judgment debtor
and said judgment was duly entered in (referring to where entered) for

** $ principal,
** $ attorney fees,
** $ interest, and
** $_____costs, making a total amount of
** $ the judgment as entered, and

Whereas, according to an affidavit and/or a memorandum of costs after judgment filed herein, it appears that further sums have accrued since the entry of judgment, to wit.

** $ accrued interest, and
** $_____ accrued costs, together with
$_____

fee for the issuance of this writ, making a total of
** $_____as accrued costs, accrued interest, and fees.

Credit must be given for payments and partial satisfactions in the amount of $_____
which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance actually due on the date of issuance of this writ of
** $_____
of which $_____ is due on the judgment as entered and bears interest at 7 percent per annum, in the amount of $_____ per day, from the date of issuance of this writ to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

Notice by mail of any sale under the writ of execution (has) (has not) been requested The following named persons have requested such notice of sale:

Names Addresses

After the levy has been made, a copy of this writ of execution shall be mailed by the levying officer to the judgment debtor at the address below unless a copy has been served at the time of the levy.

Name Address

Notice to the Judgment Debtor: You may be entitled to file a claim exempting your property from execution You may seek the advice of an attorney or may, within 10 days from the date your property was levied upon, deliver an affidavit to the levying officer seeking to exempt such property, as provided in Section 690.50 of the Code of Civil Procedure

These presents are therefore to command you to satisfy the said judgment with interest and costs as provided by law and your costs and disbursements out of the personal property of said debtor not exempt from execution, and if sufficient personal property cannot be found, then out of his real property; or if the judgment be a lien upon real property, then out of the real property belonging to him on the day when the abstract of judgment was filed as provided in Section 674 of the Code of Civil Procedure, or at any time thereafter, make notice by mail of any levy pursuant to this writ of execution, and make return of this writ within not less than 10 days nor more than 60 days after your receipt thereof, with what you have done endorsed hereon Given under my hand (and the seal of _____) on _____ 19____

Note to printer where the asterisk (*) appears in the foregoing form, it is intended that the printed form shall have the same arrangement and number of words in the line.

Where the double asterisk (**) appears in the foregoing form, it is intended that the dollar sign characters ($) shall appear under one another in vertical column.

SEC 4. Section 687 of the Code of Civil Procedure is amended to read

687 (a) Where the execution is against the property of the judgment debtor, it may be issued to the sheriff, or any constable, or marshal of any county in the state Where it requires the delivery of real or personal property, it must be issued to the sheriff, or a constable, or marshal of the county where the property, or some part thereof, is situated. If the judgment directs or authorizes the issuing of any process requiring the sale, or the delivery of possession of, or otherwise affecting specific real property, which is then, or subsequently becomes, a part of a county other than that in which such judgment was entered, such process may be issued to, and executed by, the sheriff, or any constable, or marshal of such other county, as to the property situate therein. Executions may be issued to different counties.

(b) A writ of execution may be served by any registered process server registered pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code, where execution is sought against property of a judgment debtor in the possession of another and the levy of execution does not require the person serving the writ to sell, deliver, or take custody of such property

(c) When a writ of execution is served by a registered process server pursuant to subdivision (b), the sheriff, constable, or marshal shall perform all other duties as required by the provisions of this chapter, except for the actual service of the writ, as if the sheriff, constable, or marshal had served the writ himself, and shall in addition process the return of the writ by the registered process server upon receipt of the fee specified in Section 26725 of the Government Code

SEC 5 Section 26725 of the Government Code is amended to read

26725. The fee for serving, executing, or processing a writ of attachment, execution, or order on real estate is eight dollars and fifty cents ($8 50) as to the initial service or posting of a continuous unbroken parcel or tract, and eight dollars and fifty cents ($8.50) for serving a record owner other than the defendant.

SEC 6 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1420

An act to amend Section 2193 6 of the Business and Professions Code, relating to the practice of medicine.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 2193.6 of the Business and Professions Code is amended to read

2193 6 Notwithstanding any other provision of law, any applicant whose medical education was acquired in another country or in the United States and who has been licensed to practice, and who has actively practiced, medicine and surgery for a period of not less than 14 years in a foreign country or other state of the United States, and whose license requirements and medical education are evaluated and deemed satisfactory to the board, shall be required to pass only those portions of the written examination as provided under Article 10 (commencing with Section 2280), relating to clinical competence and clinical science and shall be exempt from other portions of the written examination Such applicant shall be required to pass an oral and comprehensive clinical examination administered by the board

CHAPTER 1421

An act to amend Sections 74954 and 74954 5 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 74954 of the Government Code is amended to read·

74954. (a) Whenever a reference is made to a numbered salary range according to the standard salary schedule in any section of this article, the schedule of monthly salaries shall apply:

RANGE	STEP A	STEP B	STEP C	STEP D	STEP E
18 0	682	710	742	774	809
18.1	685	713	745	777	813
18 2	688	716	748	781	816
18.3	690	720	751	784	820
18 4	693	723	754	788	823
18 5	696	726	757	791	827
18 6	699	729	760	795	830
18 7	702	732	764	798	834
18 8	704	736	767	802	837
18 9	707	739	771	805	841
19.0	710	742	774	809	844
19 1	713	745	777	813	848
19 2	716	748	781	816	852
19 3	720	751	784	820	856
19 4	723	754	788	823	860
19.5	726	757	791	827	864
19 6	729	760	795	830	868
19 7	732	764	798	834	872
19.8	736	767	802	837	875
19 9	739	771	805	841	879
20 0	742	774	809	844	883
20 1	745	777	813	848	887
20 2	748	781	816	852	891
20 3	751	784	820	856	894
20.4	754	788	823	860	898
20 5	757	791	827	864	902
20 6	760	795	830	868	906
20 7	764	798	834	872	910
20 8	767	802	837	875	914
20 9	771	805	841	879	918
21.0	774	809	844	883	922

21.1	777	813	848	887	926
21.2	781	816	852	891	930
21.3	784	820	856	894	934
21.4	788	823	860	898	938
21.5	791	827	864	902	942
21.6	795	830	868	906	946
21.7	798	834	872	910	950
21.8	802	837	875	914	955
21.9	805	841	879	918	959
22.0	809	844	883	922	963
22.1	813	848	887	926	967
22.2	816	852	891	930	971
22.3	820	856	894	934	976
22.4	823	860	898	938	980
22.5	827	864	902	942	984
22.6	830	868	906	946	988
22.7	834	872	910	950	993
22.8	837	875	914	955	997
22.9	841	879	918	959	1002
23.0	844	883	922	963	1006
23.1	848	887	926	967	1011
23.2	852	891	930	971	1015
23.3	856	894	934	976	1020
23.4	860	898	938	980	1024
23.5	864	902	942	984	1029
23.6	868	906	946	988	1034
23.7	872	910	950	993	1039
23.8	875	914	955	997	1043
23.9	879	918	959	1002	1048
24.0	883	922	963	1006	1053
24.1	887	926	967	1011	1058
24.2	891	930	971	1015	1062
24.3	894	934	976	1020	1067
24.4	898	938	980	1024	1071
24.5	902	942	984	1029	1076
24.6	906	946	988	1034	1081
24.7	910	950	993	1039	1086
24.8	914	955	997	1043	1090
24.9	918	959	1002	1048	1095
25.0	922	963	1006	1053	1100
25.1	926	967	1011	1058	1105
25.2	930	971	1015	1062	1110
25.3	934	976	1020	1067	1116
25.4	938	980	1024	1071	1121
25.5	942	984	1029	1076	1126
25.6	946	988	1034	1081	1131
25.7	950	993	1039	1086	1136
25.8	955	997	1043	1090	1141
25.9	959	1002	1048	1095	1146

26.0	963	1006	1053	1100	1151
26.1	967	1011	1058	1105	1156
26.2	971	1015	1062	1110	1161
26.3	976	1020	1067	1116	1167
26.4	980	1024	1071	1121	1172
26.5	984	1029	1076	1126	1177
26.6	988	1034	1081	1131	1183
26.7	993	1039	1086	1136	1188
26.8	997	1043	1090	1141	1194
26.9	1002	1048	1095	1146	1199
27.0	1006	1053	1100	1151	1205
27.1	1011	1058	1105	1156	1210
27.2	1015	1062	1110	1161	1216
27.3	1020	1067	1116	1167	1221
27.4	1024	1071	1121	1172	1227
27.5	1029	1076	1126	1177	1232
27.6	1034	1081	1131	1183	1238
27.7	1039	1086	1136	1188	1244
27.8	1043	1090	1141	1194	1249
27.9	1048	1095	1146	1199	1255
28.0	1053	1100	1151	1205	1261
28.1	1058	1105	1156	1210	1267
28.2	1062	1110	1161	1216	1272
28.3	1067	1116	1167	1221	1278
28.4	1071	1121	1172	1227	1283
28.5	1076	1126	1177	1232	1289
28.6	1081	1131	1183	1238	1295
28.7	1086	1136	1188	1244	1301
28.8	1090	1141	1194	1249	1307
28.9	1095	1146	1199	1255	1313
29.0	1100	1151	1205	1261	1319
29.1	1105	1156	1210	1267	1325
29.2	1110	1161	1216	1272	1331
29.3	1116	1167	1221	1278	1337
29.4	1121	1172	1227	1283	1343
29.5	1126	1177	1232	1289	1349
29.6	1131	1183	1238	1295	1355
29.7	1136	1188	1244	1301	1361
29.8	1141	1194	1249	1307	1368
29.9	1146	1199	1255	1313	1374
30.0	1151	1205	1261	1319	1380
30.1	1156	1210	1267	1325	1387
30.2	1161	1216	1272	1331	1393
30.3	1167	1221	1278	1337	1400
30.4	1172	1227	1283	1343	1406
30.5	1177	1232	1289	1349	1413
30.6	1183	1238	1295	1355	1419
30.7	1188	1244	1301	1361	1426
30.8	1194	1249	1307	1368	1432

30 9	1199	1255	1313	1374	1439
31.0	1205	1261	1319	1380	1445

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates on the standard salary schedule for the County of Napa, effective on the date of this act, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court employees under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 2 Section 74954.5 of the Government Code is amended to read:

74954.5. (a) Whenever a reference is made to a numbered salary range according to the management and nonclassified personnel salary schedule in any section of this article, the following schedule of monthly salaries shall apply:

RANGE	STEP A	STEP B	STEP C	STEP D	STEP E
71.0	1116	1169	1224	1282	1343
71.1	1121	1174	1230	1288	1349
71.2	1127	1180	1235	1294	1356
71.3	1132	1185	1241	1300	1362
71.4	1138	1191	1246	1306	1369
71 5	1143	1196	1252	1312	1376
71 6	1148	1202	1258	1318	1381
71 7	1153	1207	1264	1324	1388
71 8	1159	1213	1270	1331	1394
71 9	1164	1218	1276	1337	1401
72.0	1169	1224	1282	1343	1407
72 1	1174	1230	1288	1349	1414
72.2	1180	1235	1294	1356	1421
72 3	1185	1241	1300	1362	1427
72 4	1191	1246	1306	1369	1434
72.5	1196	1252	1312	1375	1441
72.6	1202	1258	1318	1381	1448
72 7	1207	1264	1324	1388	1455
72 8	1213	1270	1331	1394	1461
72 9	1218	1276	1337	1401	1468
73 0	1224	1282	1343	1407	1475
73 1	1230	1288	1349	1414	1482
73 2	1235	1294	1356	1421	1489
73 3	1241	1300	1362	1427	1496
73 4	1246	1306	1369	1434	1503
73 5	1252	1312	1375	1441	1510
73 6	1258	1318	1381	1448	1517
73 7	1264	1324	1388	1455	1524

73.8	1270	1331	1394	1461	1532
73.9	1276	1337	1401	1468	1539
74.0	1282	1343	1407	1475	1546
74.1	1288	1349	1414	1482	1553
74.2	1294	1356	1421	1489	1561
74.3	1300	1362	1427	1496	1568
74.4	1306	1369	1434	1503	1576
74.5	1312	1375	1441	1510	1583
74 6	1318	1381	1448	1517	1590
74.7	1324	1388	1455	1529	1599
74.8	1331	1394	1461	1532	1605
74.9	1337	1401	1468	1539	1612
75.0	1343	1407	1475	1546	1619
75 1	1349	1414	1482	1553	1627
75.2	1356	1421	1489	1561	1635
75.3	1362	1427	1496	1568	1642
75.4	1369	1434	1503	1576	1650
75.5	1375	1441	1510	1583	1658
75.6	1381	1448	1517	1590	1666
75 7	1388	1455	1524	1597	1674
75.8	1394	1461	1532	1605	1681
75 9	1401	1468	1539	1612	1689
76 0	1407	1475	1546	1619	1697

(b) In the event the Board of Supervisors of the County of Napa amends the resolution establishing salary ranges and monthly salary rates for the management and nonclassified personnel of the County of Napa, or adopts a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for the municipal court management and nonclassified personnel under this article on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the second year following the year in which such change is made.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any costs incurred by it under this act because this act is in accordance with the request of a local governmental entity which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 1422

An act to amend Section 70141.4 of, and to add Section 73521.3 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 70141.4 of the Government Code is amended to read·

70141.4. In any county with a population exceeding 500,000 and not exceeding 557,000 as determined by the 1970 federal census, the superior court may provide that commissioners, in addition to the duties prescribed by Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code. A court commissioner shall receive a salary representing 70 percent, 75 percent, or 80 percent of the annual salary for a superior court judge. The court shall determine the level of salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court.

SEC. 2. Section 73521.3 is added to the Government Code, to read:

73521.3 There shall be two court commissioners for the Southern Judicial District and one court commissioner for the Northern Judicial District, to be appointed by a majority of the municipal court judges of each such district.

At the direction of the judges, such commissioners may have the same jurisdiction and exercise the same powers and duties as commissioners of superior courts and as the judges of the municipal courts with respect to all subordinate judicial functions of such courts. Such commissioners shall possess the same qualifications required of a municipal court judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of the law. They shall be ex-officio deputy clerks.

Court commissioners shall receive a salary representing 70 percent, 75 percent or 80 percent of the annual salary for a superior court judge. The court shall determine the level of salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court

SEC 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act

CHAPTER 1423

An act to amend Sections 26821.1, 26822.1, 26822.3, 26826.1, 26827.3, 70053, and 70059.5 of the Government Code, relating to filing fees.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 26821.1 of the Government Code is amended to read:

26821 1. In any city and county, the fee for the filing of the first paper in a civil action or special proceeding, except an adoption proceeding, is forty-six dollars ($46), except for actions filed pursuant to Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) of the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) for which such fee shall be thirty dollars ($30); provided however, in each civil action in which the demand is for one thousand dollars ($1,000) or less, the filing fee shall be twelve dollars ($12).

SEC. 2. Section 26822.1 of the Government Code is amended to read·

26822.1. In any city and county, the fee for filing the papers transmitted from another court on the transfer of a civil action or a special proceeding is forty-six dollars ($46), except for actions filed pursuant to Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) of the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) for which such fee shall be thirty dollars ($30)

SEC. 3. Section 26822.3 of the Government Code is amended to read:

26822.3. In addition to, and at the same time, as fees are collected pursuant to Sections 26821, 26821.1, 26821.2, 26826, 26826.1, 26826.2, 26827, 26827.2 and 26827.3, a fee of three dollars ($3) shall be collected

The funds shall be transmitted at the end of each month to the State Controller for payment into the Judges' Retirement Fund.

SEC 4 Section 26826.1 of the Government Code is amended to read·

26826 1 In any city and county, upon filing the first paper in the action on behalf of the defendant, intervenor, respondent, correspondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer, the fee is twenty-three dollars ($23), except for actions filed pursuant to Title 2 (commencing with Section 440C) or Title 3 (commencing with Section 4500) of the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code) for which such fee shall be fifteen dollars ($15)

As used in this section the word "paper" does not include a stipulation for the appointment of a judge pro tempore or of a court investigator or the report made by such investigator or the declaration of a spouse filed in an order to show cause proceeding.

SEC 5 Section 26827.3 of the Government Code is amended to read

26827.3 In any city and county, the fee for filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary, a first account of a testamentary trustee, or a petition for letters of guardianship, or a petition for letters of conservatorship, or a petition for compromise of minor's claim, is forty-six dollars ($46). For filing any subsequent petition for letters of administration, special letters of administration, letters testamentary, letters of guardianship, letters of conservatorship, or a first account of a testamentary trustee, or a petition to contest any will or codicil, in the same proceeding, by a person other than the original petitioner, the fee is forty-six dollars ($46) When the subsequent petition is filed and the petitioner is the same person named in the original petition, no fee shall be charged When the public administrator or an employee of the Department of Mental Hygiene in his official capacity is the petitioner, they shall be required to pay the fee only out of the assets of the estate coming into their possession

SEC 6 Section 70053 of the Government Code is amended to read

70053. In addition to fees required by other laws, each party shall, or the parties appearing jointly shall jointly, pay the county clerk of the county the fee specified in Sections 70054 to 70059.5, inclusive, in each of the following instances

(a) Where Section 26821, 26821 1, or 26821.2 requires the party or parties to pay the clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court

(b) Where Sections 26822 to 26825, inclusive, require the party or parties to pay the clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court. This subdivision does not apply to a county with a population of 70,000 or less by the 1940 census, or over 295,000 and under 500,000 by the 1950 census

(c) Where Section 26822 requires the party or parties to pay the clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court This subdivision applies only to a county with a population of 70,000 or less by the 1940 federal census, or over 295,000 and under 500,000 by the 1950 federal census

(d) Where Section 26826, 26826 1, or 26826 2 requires the party or parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent,

correspondent, or adverse party, except in an appeal from an inferior court. If any of such parties appear jointly they shall pay but one such additional fee of three dollars ($3), four dollars ($4), five dollars ($5), or six dollars and fifty cents ($6 50) as determined by Sections 70054 to 70059 5, inclusive.

(e) Where Section 26827, 26827 2, or 26827.3 requires the party or parties to pay the clerk a fee for the filing of a petition or other paper in a probate or guardianship matter.

SEC 7 Section 70059.5 of the Government Code is amended to read

70059 5 In a city and county the fee required by Section 70053 shall be nineteen dollars ($19)

CHAPTER 1424

An act to amend Sections 70059.8, 73674, 73674 1, 73676, 73677, 74843, 74845, 74847, and 74851 of, the Government Code, relating to courts

[Became law without signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 70059.8 of the Government Code is amended to read

70059 8 (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042 and 70045, the following provisions shall be applicable to the official court reporters in Solano County

(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity

(c) Each regular official court reporter shall be paid a salary according to the following schedule

Range 783	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	626 40	657.60	690 40	724.80	760.80

(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date

(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(g) Notwithstanding the provisions of Sections 70053 and 70054:

(1) In order to help defray the costs of reporting services, in addition to any fees otherwise required by law, a fee of sixteen dollars ($16) shall be paid to the county clerk by each party, or jointly by parties appearing jointly, in each of the following instances:

(A) Where Section 26821 requires such party or parties to pay the county clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court;

(B) Where Sections 26822 to 26825, inclusive, require such party or parties to pay the county clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court;

(C) Where Section 26826 requires the party or parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, correspondent, or adverse party, except in an appeal from an inferior court;

(D) Where Section 26827 requires such party or parties to pay the county clerk a fee for the filing of a petition or other paper in a probate, guardianship, conservatorship, or other proceeding specified in that section.

(2) In addition to any fee otherwise required in civil cases that last

longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC. 2. Section 73674 of the Government Code is amended to read·

73674. The clerk may appoint (a) one chief deputy clerk; (b) one deputy clerk V, (c) four deputy clerks IV; (d) one deputy clerk III; (e) four courtroom clerks; (f) one account clerk III; (g) 19 deputy clerks II, or deputy clerk I or deputy clerk trainees as may be determined by the judges with the concurrence of the Board of Supervisors; (h) one legal secretary. Each of these employees shall receive the salary specified in Section 73677 for this classification.

SEC. 3. Section 73674.1 of the Government Code is amended to read·

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule.

Range 783	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	626.40	657 60	690.40	724 80	760 80

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other

general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper.

(B) Upon the filing of the answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of Title 8.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC 4. Section 73676 of the Government Code is amended to read:

73676. Wherever a reference to a salary range number is made in this article, the schedule found in the Personnel and Salary Resolution of the County of Solano shall apply. Any salary change resulting from an amendment of such schedule and listing shall remain effective only until January 1 of the second year following the

calendar year in which such change is made.

Biweekly Salary Schedule

Salary Range	Step 1	Step 2	Step 3	Step 4	Step 5
327	261 60	274.40	288.00	302.40	317.60
343	274 40	288.00	302.40	317.60	333.60
357	285.60	300.00	315.20	331.20	348.00
379	303.20	318.40	334.40	351.20	368.80
415	332.00	348.80	366.40	384.80	404.00
420	336.00	352.80	370.40	388.80	408.00
460	368.00	386.40	405.60	425.60	447.20
469	375.20	393.60	413.60	434.40	456.00
485	388.00	407.20	427.20	448.80	471.20
487	389.60	408.80	429.60	451.20	473.60
495	396.00	416.00	436.80	458.40	481.60
521	416.80	437.60	459.20	482.40	506.40
575	460 00	483.20	507.20	532.80	559.20
629	503 20	528.80	554.40	582.40	611.20
662	529.60	556.00	584.00	613.60	644.00
674	539.20	566.40	594.40	624.00	655.20
754	603.20	633.60	665.60	699.20	734.40
917	733.60	770.40	808 80	849.60	892.00

SEC. 5. Section 73677 of the Government Code is amended to read.

73677. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set in the salary schedule followed in Section 73676.

Position	Range
(a) Clerical trainee	327
(b) Deputy clerk I	357
(c) Clerk II	379
(d) Account clerk I	379
(e) Deputy clerk II	415
(f) Account clerk II	420
(g) Legal secretary	469
(h) Deputy clerk III	460
(i) Supervising marshal's clerk	485
(j) Account clerk III	487
(k) Municipal courtroom clerk	495
(*l*) Deputy clerk IV	521
(m) Deputy clerk V	575
(n) Deputy marshal I	629
(o) Deputy marshal II	662
(p) Chief deputy clerk	674
(q) Sergeant marshal	754

(r) Clerk	917
(s) Clerk I	343

Each person employed on the effective date of this section in the office of the clerk, including the clerk, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the presiding judge of the court determines that the officer or employee is entitled to receive it. Officers and employees shall be appointed at the first step for the range assigned to their classification except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is appointed, the judge may appoint such person at the second step of the range assigned to that classification.

In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 73676, and, provided further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed eight hundred twelve dollars ($812) biweekly.

SEC. 6. Section 74843 of the Government Code is amended to read:

74843. The clerk may appoint (a) one chief deputy clerk; (b) one deputy clerk V; (c) three deputy clerks IV; (d) two municipal courtroom clerks; (e) one account clerk III; (f) two deputy clerks III; (g) one legal secretary; (h) twelve deputy clerks II, or deputy clerk I, or clerical trainee as shall be determined by the judges with the concurrence of the Board of Supervisors. Each of these employees shall receive the salary specified in Section 74847 for his or her classification.

SEC. 7. Section 74845 of the Government Code is amended to read:

74845. The marshal may appoint (a) one supervising marshal's clerk; (b) five deputy marshals II, or deputy marshal I as shall be determined by the judges with the concurrence of the Board of Supervisors; provided, however, that two additional deputy marshals may be appointed upon the determination of the judges with the concurrence of the Board of Supervisors; (c) two clerks II or I or clerical trainee; (d) one sergeant marshal; (e) one account clerk II or I or clerical trainee. Each of these employees shall receive the salary specified in Section 74847 for his or her classification.

SEC. 8. Section 74847 of the Government Code is amended to read:

74847. Persons employed in any of the positions authorized by this article except the marshal shall be paid the salary assigned to the

following ranges as set forth in the salary schedule contained in Section 74846:

Position	Range
(a) Clerical trainee	327
(b) Deputy clerk I	357
(c) Clerk II	379
(d) Account clerk I	379
(e) Deputy clerk II	415
(f) Account clerk II	420
(g) Legal secretary	469
(h) Deputy clerk III	460
(i) Supervising marshal's clerk	485
(j) Account clerk III	487
(k) Municipal courtroom clerk	495
(l) Deputy clerk IV	521
(m) Deputy clerk V	575
(n) Deputy marshal I	629
(o) Deputy marshal II	662
(p) Chief deputy clerk	674
(q) Sergeant-marshal	754
(r) Clerk	917
(s) Clerk I	343

Each person employed in the office of the clerk and the office of the marshal, including the clerk and the marshal, on the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it The clerk, deputy clerks, and the attachés of the court shall be appointed at the first step for the range assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the range assigned to that classification In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 74846, and, provided, further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed nine hundred dollars ($900) biweekly

SEC 9 Section 74851 of the Government Code is amended to read

74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 783	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	626.40	657.60	690.40	724.80	760.80

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper

(B) Upon the filing of the answer or other first paper on behalf of

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any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of this title

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth (6th) and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day

(4) All fees paid under this section shall be taxed as costs.

SEC 10 The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Solano County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties

SEC 11 If any provision of Section 1 or 3 of this act, or of Section 68514 of the Government Code or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

SEC 12 Notwithstanding Section 2231 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any costs incurred by it under this act because this act is in accordance with the request of a local governmental entity which desires legislative authority to act to carry out the program specified in this act.

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CHAPTER 1425

An act to amend Sections 74604 and 74607 of the Government Code, relating to San Luis Obispo County Municipal Court.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 74604 of the Government Code is amended to read

74604 There shall be one clerk of the court known as the clerk-administrator who shall be appointed by the presiding judge and who shall hold office at his pleasure He shall receive an annual salary of twenty-six thousand one hundred twenty-three dollars ($26,123) In addition to any other duties imposed upon him by law, at the direction of the presiding judge, the clerk-administrator shall have the following duties

(a) To direct and coordinate the nonjudicial activities of the court

(b) To coordinate the personnel practices in compliance with rules of the court

(c) To prepare and administer the budget of the court

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to such matters as standardization of forms, procedures, and classification and compensation of officers and employees

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge

SEC 2. Section 74607 of the Government Code is amended to read

74607. The presiding judge of the court may appoint:

(a) Four municipal court clerks IV, each of whom shall receive a monthly salary at a rate specified in range 61 2

(b) One accounting technician, who shall receive a monthly salary at a rate specified in range 60.7

(c) Two municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 60 2

(d) One account clerk, who shall receive a monthly salary at a rate specified in range 58 4

(e) Two municipal court clerks II, each of whom shall receive a monthly salary at a rate specified in range 59.3.

(f) Nineteen municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 57.9.

(g) One part-time municipal court clerk I, who shall receive a monthly salary at a rate specified in range 57.9.

(h) One assistant clerk-administrator, who shall receive a monthly salary at a rate specified in range 65.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity which desired Legislative authority to act to carry out the program specified in this act.

CHAPTER 1426

An act to amend Sections 73561.2, 73562, 73563, 73564, 73565, and 73566 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 73561 2 of the Government Code is amended to read:

73561.2. Notwithstanding Section 72190, the commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law. The commissioner shall receive a salary of 50 percent of the salary received by a judge of the municipal court. The salary may be increased by the board of supervisors up to 60 percent of a municipal court judge's salary. The commissioner may serve and perform all the duties authorized by law in any municipal court by agreement of two concerned presiding judges. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC 2 Section 73562 of the Government Code is amended to read:

73562 The municipal court judges may, by a majority vote, appoint a municipal courts administrator who shall serve all the municipal courts and who shall be the clerk of each of the municipal courts designated in Section 73560; provided however, that the municipal courts administrator shall not be the municipal court administrator or clerk of any judicial district in which the majority of those judges decline to approve or determine to revoke the appointment He shall receive a salary of two thousand one hundred

eighty-three dollars ($2,183) per month, provided, however, that the salary may be adjusted pursuant to Section 73565. He shall be the appointing authority for those positions listed in Section 73563.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal courts administrator among which shall be.

(a) To direct and coordinate the nonjudicial activities of the districts

(b) To coordinate the personnel practices in compliance with rules of the districts and those of the County of Monterey.

(c) To prepare and administer the budgets of the districts.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment and supplies necessary for operation of the districts.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges of each district relating to the business of the districts, including, but not limited to, such matters as standardization of forms, procedures, and of classification and compensation of court attachés

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal courts.

(h) To prepare procedure guides for the personnel of the municipal courts

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the districts with other persons, committee boards, groups, and associations as directed by the presiding judge of each district

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors

SEC. 3. Section 73563 of the Government Code is amended to read

73563 The number of positions within each job classification which may be filled by appointment by the municipal courts administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73565, and may adjust the number and classification of positions pursuant to Section 73566

In the Monterey Peninsula Municipal Court District

Number	Job classification	Monthly salary

1	Assistant clerk of the municipal court	1627F
1	Senior municipal court clerk	923–1206
7	Municipal court clerk	854–1059
1	Principal clerk	793– 982
1	Senior typist-clerk	714– 884
1	Senior account clerk	750– 930
1	Senior stenographer clerk	773– 958
4	Legal process clerk	679– 841
9	Typist-clerk II	646– 800

In the Salinas Municipal Court District

Number	Job classification	Monthly salary
1	Assistant clerk of the municipal court	1627F
2	Senior municipal court clerk	973–1206
7	Municipal court clerk	854–1059
1	Senior typist-clerk	714– 884
1	Senior account clerk	750– 930
1	Stenographer-clerk II	696– 863
4	Legal process clerk	679– 841
6	Typist-clerk II	646– 800

In the North Monterey County Municipal Court District

Number	Job classification	Monthly salary
1	Senior municipal court clerk	973–1206
2	Municipal court clerk	854–1059
1	Account clerk	679– 841
1	Stenographer-clerk II	696– 863
1	Legal process clerk	679– 841
2	Typist-clerk II	646– 800

SEC. 4 Section 73564 of the Government Code is amended to read:

73564 Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary resolution of the County of Monterey in effect on July 16, 1977, shall apply; provided, however, that adjustments to such salaries may be made pursuant to Section 73565.

SEC 5 Section 73565 of the Government Code is amended to read

73565 Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to position classifications included in the salary resolution of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of all the municipal court districts and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall

govern salary adjustments and employee benefits for attachés of all the municipal court districts in Monterey County.

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary resolution and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court classification	County classification
Clerk and municipal courts administrator	Clerk and municipal courts administrator
Assistant clerk of the municipal court	Assistant clerk of the municipal court
Senior municipal court clerk	Supervising clerk II
Municipal court clerk	Superior court clerk
Principal clerk	Principal clerk
Senior stenographer-clerk Senior typist-clerk	Senior stenographer-clerk Senior typist-clerk
Senior account clerk	Senior account clerk
Stenographer-clerk II	Stenographer-clerk II
Legal process clerk	Legal process clerk
Account clerk	Account clerk
Typist-clerk II	Typist-clerk II

Attachés of all the municipal court districts shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including anniversary dates, changes thereto, and step advancements.

SEC. 6 Section 73566 of the Government Code is amended to read

73566. (a) With the approval of the board of supervisors, a majority of municipal court judges of any municipal court district in the county may adjust the number and classification of positions for officers, attachés, and employees provided by this article. The order and approval adjusting any such position shall designate the position title and salary

When any additional positions are so established, the municipal courts administrator may appoint and employ such additional officers, attachés, and employees as are necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members.

(b) Any adjustment made pursuant to this section shall be effective when established by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

SEC. 7 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to act to carry out the program specified in this act.

CHAPTER 1427

An act making an appropriation to the Health Care Deposit Fund for Medi-Cal reimbursement for state-mandated cost increases in serving developmentally disabled persons, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. The amount of forty thousand dollars ($40,000) is hereby appropriated from the General Fund to the Health Care Deposit Fund for the purpose of reimbursing licensed skilled nursing facilities that provide a program of services for the developmentally disabled under the California Medical Assistance Program (Medi-Cal) where at least 75 percent of the certified developmentally disabled residents do not have a primary diagnosis of mental retardation as of April 1, 1978, and where the primary emphasis of the program is the development of independent living skills designed for adaptation to physical disabilities, rather than mental retardation. Such reimbursement shall be for the increased cost of services for the eligible developmentally disabled residents as mandated by state regulations governing the care of certified developmentally disabled persons under Medi-Cal; provided, however, that such reimbursement payments shall not exceed three dollars and eleven cents ($3.11) per day per each developmentally disabled person so served. The sum hereby appropriated is to cover the reasonable costs of providing such state-mandated service. This appropriation shall be available only until the effective date of the regulations adopted by the State Department of Health Services establishing new rates of reimbursement for intermediate care facilities for the developmentally disabled. Reimbursement under this section shall be retroactive to April 1, 1978.

SEC 2 This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The current rate of reimbursement to skilled nursing facilities that provide a program of services for developmentally disabled residents eligible for Medi-Cal benefits is grossly insufficient to cover all increased costs mandated by state regulations governing the care of the developmentally disabled under Medi-Cal where 75 percent of such residents do not have a primary diagnosis of mental retardation as of April 1, 1978, and where the primary emphasis of the developmentally disabled program is the development of independent living skills designed for adaptation to physical disabilities, rather than mental retardation Furthermore, the new rate will not become effective until after July 1, 1978 Because of the state's failure to provide such funds for services it has mandated, such skilled nursing facilities are presently in critical economic straits and will terminate their programs of services for their developmentally disabled residents before the new rates are implemented, unless this act takes effect immediately. The termination of these programs will necessitate the transfer of the developmentally disabled residents to the state hospitals which are not equipped to provide for the special needs of such persons. In order that this crisis situation may be remedied at the earliest possible time, it is necessary that this act take effect immediately

SEC 3 If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable

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CHAPTER 1428

An act to amend Sections 69994 2, 74192, 74193, 74194, 74195, and 74196 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 69994 2 of the Government Code is amended to read

69994 2 The regular official phonographic reporters shall be compensated at an annual salary of twenty-two thousand one hundred ninety-five dollars ($22,195), except that such reporters may be employed at an annual salary of eighteen thousand three hundred thirty-three dollars ($18,333) for the first year of service, at an annual salary of nineteen thousand two hundred fifty-one dollars

($19,251) for the second year of service, at an annual salary of twenty thousand two hundred twelve dollars ($20,212) for the third year of service, and at an annual salary of twenty-one thousand one hundred thirty-one dollars ($21,131) for the fourth year of service The judges of the superior and municipal courts of such county, a majority concurring, may appoint a supervising phonographic reporter at an annual salary of twenty-three thousand one hundred ninety-eight dollars ($23,198)

SEC 2 Section 74192 of the Government Code is amended to read

74192. (a) There shall be one clerk and administrator who shall be appointed by the judges of the court and who shall be secretary of the court The clerk and administrator shall receive a biweekly salary at a rate specified in range 1184 Appointment to such position shall be at step C. The position of clerk and administrator shall not be deemed to be a civil service position

(b) There shall be one administrative assistant to the court who shall be appointed by the judges of the court and who shall hold office at their pleasure and perform such duties as may be required of him by the court or the judges. The administrative assistant to the court shall receive a biweekly salary at a rate specified in range 844. The position of administrative assistant to the court shall not be deemed to be a civil service position.

(c) There shall be one senior administrative analyst for the court who shall be appointed by the judges of the court and who shall hold office at their pleasure and perform such duties as may be required of him by the court or the judges. The senior administrative analyst for the court shall receive a biweekly salary at a rate specified in range 1049 Appointment to such position shall be at step C. The position of senior administrative analyst shall not be deemed to be a civil service position

(d) There shall be three senior legal stenographers for the court who shall be appointed by the judges of the court and who shall perform such duties as may be required by the court or the judges. The senior legal stenographer for the court shall receive a biweekly salary at a rate specified in range 533. The position of senior legal stenographer shall not be deemed to be a civil service position.

(e) There shall be one senior deputy clerk for the court who shall be appointed by the judges of the court and who shall perform such duties as may be required of him by the court or the judges The senior deputy clerk for the court shall receive a biweekly salary at a rate specified in range 488. The position of senior deputy clerk for the court shall not be deemed to be a civil service position.

(f) There shall be one stenographer-clerk III for the court who shall be appointed by the judges of the court and who shall perform such duties as may be required of him by the court or the judges. Each stenographer-clerk III for the court shall receive a salary at a rate specified in range 466. The position of stenographer-clerk III for the court shall not be deemed to be a civil service position

(g) There shall be two legal research assistants who shall be appointed by the judges of the court and who shall perform such duties as may be required by the court or the judges. Each legal research assistant shall receive a salary at a rate specified in range 562 The position of legal research assistant shall not be deemed to be a civil service position.

SEC. 3 Section 74193 of the Government Code is amended to read.

74193 The clerk and administrator shall appoint:

(a) One assistant clerk, who shall receive a biweekly salary at a rate specified in range 927. The position of assistant clerk shall not be deemed to be a civil service position.

(b) Three deputy clerks, who shall be principal deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 747.

(c) Nineteen deputy clerks, who shall be court clerks, each of whom shall receive a biweekly salary at a rate specified in range 686.

(d) Three deputy clerks, who shall be deputy clerks II, each of whom shall receive a biweekly salary at a rate specified in range 453.

(e) Twenty-four deputy clerks who shall be typist-clerks II, each of whom shall receive a biweekly salary at a rate specified in range 389

(f) Seventeen deputy clerks, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 488.

(g) Six deputy clerks, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 407

(h) Eighteen deputy clerks, who shall be cashier-clerks, each of whom shall receive a biweekly salary at a rate specified in range 417.

(i) One deputy clerk, who shall be an accountant III, who shall receive a biweekly salary at a rate specified in range 844.

(j) Six deputy clerks, who shall be account clerks II, each of whom shall receive a biweekly salary at a rate specified in range 466.

(k) One deputy clerk, who shall be a data-processing technician III, who shall receive a biweekly salary at a rate specified in range 584.

(*l*) One deputy clerk, who shall be a data-processing technician II, who shall receive a biweekly salary at a rate specified in range 510.

(m) One deputy clerk, who shall be a keypunch supervisor, who shall receive a biweekly salary at a rate specified in range 533.

(n) Eight deputy clerks, who shall be keypunch operators, each of whom shall receive a biweekly salary at a rate specified in range 424.

SEC. 4 Section 74194 of the Government Code is amended to read

74194 There shall be one marshal, Sacramento County, who shall be appointed by the judges of the court, and who shall receive a biweekly salary at a rate specified in range 1156. Initial appointments will be in step C of that range. The position of marshal shall not be

deemed to be a civil service position

SEC. 5. Section 74195 of the Government Code is amended to read·

74195 The marshal shall appoint:

(a) One assistant marshal, who shall receive a biweekly salary at a rate specified in range 927

(b) One deputy marshal, who shall be a senior marshal's sergeant, who shall receive a biweekly salary at a rate specified in range 826.

(c) Nine deputy marshals, who shall be marshal's sergeants, each of whom shall receive a biweekly salary at a rate specified in range 751

(d) Twenty-two deputy marshals, who shall be bailiffs, each of whom shall receive a biweekly salary at a rate specified in range 680.

(e) One deputy marshal, who shall be a principal deputy clerk, who shall receive a biweekly salary at a rate specified in range 747.

(f) One typist-clerk III, who shall receive a biweekly salary at a rate specified in range 488

(g) Three deputy marshals, who shall be senior deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 488.

(h) Four deputy marshals, who shall be associate deputy clerks, each of whom shall receive a biweekly salary at a rate specified in range 407

(i) One deputy marshal, who shall be a deputy clerk II, who shall receive a biweekly salary at a rate specified in range 453.

The assistant marshal and all deputy marshals listed in subdivisions (a) to (d), inclusive, are authorized incentive pay in addition to the above rates as follows: 2½ percent more than prescribed in this section when in possession of an intermediate peace officers standards and training certificate or 5 percent more than prescribed in this section when in possession of an advanced peace officers standards and training certificate; an additional 2½ percent more than prescribed in this section when in possession of an associate of arts degree or 5 percent more than prescribed in this section when in possession of a bachelor of arts degree. A maximum of 10 percent additional is authorized for all types of incentive pay. All deputy marshals listed in subdivisions (g) and (h), above, are authorized to receive a 5-percent salary differential in addition to the rates indicated for serving as matrons The classification indicated in subdivision (i) above, is a holding classification to be replaced by classifications indicated by subdivision (h) when incumbents leave the positions.

SEC 6 Section 74196 of the Government Code is amended to read

74196 Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the salary ordinance of the County of Sacramento in effect September 1, 1977, shall apply

(a) Unless otherwise specifically provided, each person appointed

to a position, the compensation of which is fixed by reference to the salary schedule incorporated by this article, shall, for the first 52 weeks of service, receive biweekly the rate of compensation specified in the first step of the salary range for the position to which he is appointed. Upon the first day of the biweekly pay period following 52 weeks' continuous service in a class, the initial rate of compensation of such person shall be increased to the next higher step of the salary range for the position occupied. On and after the first day of the biweekly pay period following each ensuing 52 weeks of such service such compensation shall be increased to the rate specified in the next higher step of the salary range for the position occupied until such compensation equals the sum specified in the highest step of the range pertaining to such position.

(b) When any person in the service of the court is appointed or promoted to another office or position in such service compensated at a higher numbered range, he shall receive step 1 of such range if step 1 is at least one step higher than the salary received in the office or position relinquished; but if not, he shall receive initially that step of the range pertaining to such office or position which will provide a one-step increase in his compensation.

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

SEC. 7 The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Sacramento County is necessary to permit the Legislature to carry out its constitutionally delegated reponsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties

SEC 8 If any provision of Section 1 of this act, or of Section 68531 of the Government Code or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

SEC 9. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1429

An act to amend Sections 68530, 73680, 73681, 73682, 73683, 73684, 74921 5, 74921.6, 74922, 74922.5, 74923, 74923.5, 74924, 74924.5, and 74924.6 of, and to repeal Sections 73695, 74923.6, and 74927.5 of, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1. Section 68530 of the Government Code is amended to read·

68530 (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Kings, Mariposa, and Tulare Counties Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for such transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(5) Such other information as the Judicial Council may require.

SEC 2. Section 73680 of the Government Code is amended to read.

73680 This article applies to the municipal court established in the Consolidated Fresno Judicial District, County of Fresno

SEC 3 Section 73681 of the Government Code is amended to read:

73681. There shall be eight judges.

SEC. 4 Section 73682 of the Government Code is amended to read

73682 There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator and secretary of the court. He shall receive a salary at range 765

SEC 5 Section 73683 of the Government Code is amended to read·

73683. (a) The clerk may appoint the following court personnel who shall receive salaries at the ranges indicated:

(1) Three chief deputy clerks at salary range 498.

(2) Ten court clerks at salary range 435.

(3) Nine deputy clerks II at salary range 435.

(4) Five deputy clerks I at salary range 348.

(5) One secretary at salary range 420.

(6) One stenographer-secretary at salary range 382.

(7) Two stenographers II at salary range 317.

(8) Two stenographers I at salary range 259.

(9) One supervising data entry operator at salary range 377.

(10) Four data entry operators II at salary range 300.

(11) Four data entry operators I at salary range 234.

(12) Twenty-six typist-clerks II at salary range 279.

(13) Twenty-six typist-clerks I at salary range 234.

(b) The clerk may appoint any combination of stenographers and secretaries described in paragraphs (5), (6), (7), and (8) of subdivision (a) not to exceed a total of two, may appoint any combination of typists described in paragraphs (12) and (13) of subdivision (a) not to exceed a total of 26, and may appoint any combination of data entry operators described in paragraphs (10) and (11) of subdivision (a) not to exceed a total of four.

SEC. 6. Section 73684 of the Government Code is amended to read

73684 Whenever reference to a numbered salary range is made in any section of this article, the schedule found in the salary ordinance of the County of Fresno in effect March 27, 1978, shall apply.

Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court

SEC 7. Section 73695 of the Government Code is repealed.

SEC. 8 Section 74921.5 of the Government Code is amended to read·

74921 5 In the Porterville Judicial District there shall be one clerk or clerk-traffic referee of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, two court clerks II, two court clerks I and three intermediate clerk-typists, each of whom shall receive a salary in accordance with

Sections 74923 and 74924.

SEC 9 Section 74921.6 of the Government Code is amended to read·

74921 6 In the Tulare-Pixley Judicial District there shall be one clerk or clerk-traffic referee of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, two court clerks II, three court clerks I and four intermediate clerk-typists, each of whom shall receive a salary in accordance with Sections 74923 and 74924

SEC 10 Section 74922 of the Government Code is amended to read.

74922 In the Visalia Judicial District there shall be one clerk of the municipal court who shall also act as administrator and secretary of the court The clerk may appoint one assistant clerk of the municipal court, three court clerks III, two court clerks II, two court clerks I, and six intermediate clerk-typists, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC 11 Section 74922.5 of the Government Code is amended to read·

74922 5 There shall be one marshal for each municipal court who shall receive a biweekly salary of six hundred seventy-one dollars and thirty- six cents ($671.36). The marshal of the Visalia Judicial District may appoint three deputy marshals and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint one deputy marshal and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924

SEC. 12 Section 74923 of the Government Code is amended to read.

74923 The biweekly salaries for the following classes of positions shall be eighty (80) times the hourly rate set forth in the following schedule.

		Hourly rate				
	Range	A	B	C	D	E
Clerk-traffic referee of the municipal court	128	7 023	7.379	7.753	8.146	8.559
Clerk of the municipal court	119	6 426	6 751	7.093	7.452	7.830
Assistant clerk of the municipal court .	98	5.224	5 488	5.765	6.056	6.363
Court clerk III	88	4 734	4.973	5.224	5.488	5.765
Court clerk II	71	4 005	4.207	4 419	4.642	4.876
Court clerk I	57	3.491	3 666	3 851	4 045	4 249
Account clerk..... .	57	3.491	3.666	3.851	4.045	4 249
Intermediate clerk-typist	53	3 357	3.525	3.702	3.889	4.085

Deputy marshal .	103	5.488	5 765	6.056	6.363	6 685

SEC. 13 Section 74923 5 of the Government Code is amended to read

74923 5 Notwithstanding the provisions of Section 72400, the judges of the superseded Porterville Justice Court and Pixley Justice Court while holding such office as clerk, may serve as traffic referees on appointment by the presiding judge of any municipal court in Tulare County The traffic referees shall be reimbursed for mileage and travel expenses when serving at a court other than the court at which they are appointed as clerk.

SEC 14 Section 74923 6 of the Government Code is repealed.

SEC 15 Section 74924 of the Government Code is amended to read·

74924 Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall normally be at step A If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the appointing authority of the court determines that the officer or employee is properly entitled to receive it Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances, to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto

Municipal court classification	County classifications
Clerk, municipal	Assistant county clerk

court	minus 15 ranges
Clerk-traffic referee	Assistant county clerk minus 6 ranges
Assistant clerk, municipal court	Court clerk IV plus 2 ranges
Court clerk III	Court clerk III
Court clerk II	Court clerk II
Court clerk I	Court clerk I
Account clerk	Account clerk
Intermediate clerk-typist	Intermediate clerk-typist
Marshal	Sheriff's sergeant
Deputy marshal	Bailiff plus two ranges

SEC 16 Section 74924.5 of the Government Code is amended to read·

74924.5 If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, with the approval of the presiding judge of the court and the board of supervisors, the clerk or the marshal may appoint as many additional attachés or employees as are needed. The additional attachés or employees shall be selected and appointed in the same manner as those for whom express provision is made, and they shall receive compensation as prescribed in this article, or as prescribed by ordinance or resolution of the board of supervisors for classes not expressly provided for in this article. If through workload or organizational changes, duties are delegated to certain positions in classes not expressly provided for in this article, with the approval of the presiding judge of the court and the board of supervisors, such positions may be reallocated to different existing classes in the County of Tulare classification plan or allocated to new classes appropriate to the duties being performed. Attachés and employees may continue in such positions, or reallocated positions, only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature. The provisions of this section are not intended to affect the application of Section 72150 of this code

SEC. 17 Section 74924.6 of the Government Code is amended to read·

74924 6 (a) Notwithstanding Section 72194, each judge of the municipal court districts in the County of Tulare may appoint a competent phonographic reporter, to be known as a regular official reporter of such court, and such pro tempore reporters as necessary to report the proceedings of the court. Regular official reporters shall hold office during the pleasure of the appointing judge. The duties of regular official reporters appointed pursuant to this section shall be performed as elsewhere provided by law.

(b) The fee for official court reporters for reporting proceedings shall be seventy-five dollars ($75) a day. All other fees of such reporters shall be as elsewhere provided by law. Where it is necessary to appoint a pro tempore reporter, the pro tempore reporter shall receive the same per diem fee paid regular official reporters of the municipal courts for the days the pro tempore reporter actually is on duty under order of the court. Regular official reporters and pro tempore reporters shall not receive more than one per diem fee a day from the county. Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by the board of supervisors. Adjustments in compensation made pursuant to this subdivision shall be effective only until January of the second year following the year in which such adjustments are made, unless ratified by the Legislature.

(c) In addition to the compensation provided in this section, regular official reporters of the municipal courts may be authorized by the board of supervisors to participate in any group health, accident, life insurance or deferred compensation plan adopted by the county.

(d) Regular official reporters shall be members of any retirement system maintained by the county. For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all per diem and transcription fees paid by the county to each regular official reporter up to a maximum of twenty-five thousand dollars ($25,000) per year.

Notwithstanding any other provision of law, for retirement credit purposes, regular official reporters performing services for the county on the effective date of this legislation may have their compensation earnable for past services based on the individual regular official reporter's total compensation received from the county for all services. The regular official reporter shall make application within 90 days after the effective date of this legislation and make payment of additional contributions based on the total compensation received from the county as determined by the county auditor. Regular official reporters may make additional contributions for up to a maximum of five consecutive years of past service prior to the effective date of this legislation; provided, however, that retirement credit for past services shall not exceed twenty-five thousand dollars ($25,000) per year.

SEC 18. Section 74927.5 of the Government Code is repealed.

SEC 19 The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual

county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Tulare County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in this county in view of the submitted request for an adjustment in the compensation provided to court reporters in such county.

SEC. 20. In the event that Section 68530 of the Government Code as it relates to Tulare County or Section 17 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, the amendments to subdivision (b) of Section 74924.6 of the Government Code set forth in Section 17 of this act shall be void, and to this end, Section 17 of this act and Section 68530 of the Government Code as it relates to Tulare County are inseverable.

SEC. 21. Notwithstanding Section 2231 of the Revenue and Taxation Code there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act, because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1430

An act to amend Sections 73912, 73913, 73914, 73914.1, 73915, 73915.2, 74642, 74643, 74644, 74644.1, 74644.2, 74644.4, 74657, 74658, and 74658.1 of the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Section 73912 of the Government Code is amended to read:

73912 There shall be one clerk/administrative officer of the municipal court, one assistant clerk/administrative officer of the municipal court, one chief deputy clerk, two municipal court clerks, one account clerk III, two clerk-typists III, and six clerk-typists II, each of whom shall receive a salary in accordance with Sections 73914, 73914 1, and 73915.

SEC. 2. Section 73913 of the Government Code is amended to read·

73913. There shall be one marshal, one assistant marshal, one deputy marshal II, four deputy marshals, one account clerk III, one account clerk II, and one clerk-typist II, each of whom shall receive a salary in accordance with Sections 73914, 73914.1, and 73915.

SEC 3. Section 73914 of the Government Code is amended to read.

73914. The biweekly salaries for the following classes of positions shall be, and shall be increased, in accordance with the following schedule:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk/administrative officer of the municipal court ..	368	$8 7418	$699.34	$735.10	$772.70	$812 22	$853 75
Assistant clerk/ administrative officer of the municipal court .	321	6.9147	553 18	581.46	611.19	642.47	675.35
Chief deputy clerk... .. .	262	5.1521	412.17	433.24	455 39	478 68	503.16
Municipal court clerk..	233	4.4583	356.66	374.90	394.07	414.23	435 41
Clerk-typist III..	208	3.9354	314.83	330 95	347.87	365 66	384 37
Clerk-typist II	181	3.4395	275 16	289.23	304 02	319.58	335.94
Clerk-typist I . ..	162	3.1286	250.29	263.09	276 54	290.68	305.54
Marshal	393	9 9026	792.21	832.73	875.31	920.08	967.14
Assistant marshal	368	8.7418	699.34	735.10	772.70	812.22	853.75
Deputy marshal II	305	6 3843	510.74	536 86	564.32	593.18	623.51
Deputy marshal. ...	295	6 0737	485.90	510 74	536.86	564.32	593.18
Account clerk III	218	4 1369	330 95	347.87	365.66	384.37	404.02
Account clerk II .. .	191	3.6154	289.23	304.02	319.58	335.94	353.12

SEC 4 Section 73914 1 of the Government Code is amended to read:

73914.1. (a) Deputy marshals II and deputy marshals shall receive such initial and annual uniform allowances as may be provided by resolution or ordinances to those employees of the sheriff's department of Santa Barbara County who are classified as sheriff's deputies.

(b) The administration of the salary plan provided by this article, including the hiring rate, increases within range, salary on promotion, and salary on position reclassification, shall be in accordance with the current personnel rules and salary ordinance of the County of Santa Barbara.

(c) On and after July 2, 1973, the following regulations will govern the administration of the classification and compensation schedule contained in this article:

(1) Except as otherwise provided in this article, all employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and shall be subject to the same rules and regulations

concerning length of workweek, anniversary dates and changes thereof, as is now or may be provided by ordinances and policies approved by the Board of Supervisors of Santa Barbara County for other employees of the county. Civil service rules governing recruitment and selection in the County of Santa Barbara at this time shall be the rules for recruitment and selection in the court district.

Nothing in this article shall be construed to place the marshal's or clerk's office, their employees and other municipal court attachés under the civil service system of Santa Barbara County, but such employees and attachés may be placed under the county's civil service system by court rule adopted by the judges of this municipal court. All persons holding positions in the marshal's office at the time of being placed under the civil service system, shall automatically succeed to the same position without further examination, qualification, loss of rights, benefits or status.

(2) For purposes of this article, an employee, unless otherwise designated, refers to every person filling any position established by Sections 73912 and 73913.

SEC. 5 Section 73915 of the Government Code is amended to read:

73915. Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of chief deputy clerk, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk-typist III, clerk-typist II, account clerk III, account clerk II, and clerk-typist I, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk-typist III, account clerk III, clerk-typist II, account clerk II, and clerk-typist I under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of deputy marshal II, and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(d) Employee classes allocated to the management or department head representation units in the County of Santa Barbara shall

receive increases or decreases in compensation or other benefits as resolved by the board of supervisors on the effective date of the resolution. These classes are clerk/administrative officer of the municipal court, assistant clerk/administrative officer of the municipal court, marshal, and assistant marshal.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date

SEC. 6 Section 73915.2 of the Government Code is amended to read·

73915.2. (a) Employees in the classifications of deputy marshal and deputy marshal II who are graduates of an accredited college or university shall be entitled to receive additional compensation, separate from the basic salary, as follows:

(1) Such employees holding an associate of arts degree or associate of science degree shall be paid allowances of 2½ percent of their respective basic salary.

(2) Such employees holding a bachelor's degree shall be paid allowances of 7½ percent of their respective basic salaries.

(b) Employees in the classifications of deputy marshal and deputy marshal II who hold a valid intermediate or advanced certificate issued by the California State Commission on Peace Officer Standards and Training, shall be entitled to receive additional compensation as follows:

(1) Such employees holding an intermediate certificate shall be paid allowances of 2½ percent of their respective basic salary.

(2) Such employees holding an advanced certificate shall be paid allowances of 7½ percent of their respective basic salary.

(c) Any such employee who has qualified under subdivision (a) or (b), shall also be paid an allowance of 2½ percent of his basic salary in addition to that authorized by subdivision (a) or (b), after satisfactorily completing thirty (30) additional semester or equivalent quarter units in specific educational fields, as designated and approved by the personnel director of the County of Santa Barbara and by the marshal.

(d) If any such employee possesses an associate of arts degree or a bachelor's degree, and either or both valid intermediate or advanced certificates issued by the California State Commission on Peace Officer Standards and Training, he shall only be entitled to receive additional compensation for one of these achievements.

(e) The additional compensation provided by this section shall be paid only upon certification by the marshal to the Auditor-Controller of the County of Santa Barbara, on forms prescribed by the auditor-controller, the names of the employees entitled to receive such additional compensation. Persons receiving the additional compensation provided by this section shall obtain appropriate

certificates issued by the California State Commission on Peace Officer Standards and Training, when due, or such additional compensation shall cease. These additional sums are payable as allowances and are not a part of the basic salary.

SEC. 7. Section 74642 of the Government Code is amended to read.

74642. There shall be one clerk-administrative officer of the municipal court, one assistant clerk-administrator of the municipal court, one chief deputy of the municipal court, eight municipal court clerks, one account clerk III, two account clerks II, one account clerk I, nine clerk-typists III, six clerk-typists II, two clerk-typists I, one clerk I, two data entry operators II, and one extra help as needed, each of whom shall receive a salary in accordance with Sections 74644, 74644 1, and 74644.2.

SEC. 8 Section 74643 of the Government Code is amended to read:

74643. There shall be one marshal, one assistant marshal, one marshal's sergeant, 10 deputy marshals, one clerk, supervising, one account clerk II, three clerks II, and one clerk-typist II, each of whom shall receive a salary in accordance with Section 74644, 74644.1, and 74644.2.

SEC. 9. Section 74644 of the Government Code is amended to read:

74644. The biweekly salary for the following classes of positions shall be, and shall be increased, in accordance with the following schedule·

	Range	Hourly rate Step A	A	B	C	D	E
Clerk-administrative officer of the municipal court	380	$9.2809	$742.47	$780.44	$820.36	$862.31	$906.40
Chief deputy of the municipal court	262	5.1521	412.17	433.24	455 39	478.68	503.16
Account clerk III	218	4.1369	330.95	347.87	365.66	384.37	404.02
Account clerk II	191	3.6154	289.23	304.02	319 58	335.94	353.12
Account clerk I	186	3 5264	282.11	296 54	311.70	327.66	344.40
Clerk typist-III	222	4 2203	337.62	354.89	373.04	392.11	412 10
Clerk-typist II	181	3 4395	275 16	289.23	304.02	319.58	335.94
Clerk-typist I	162	3 1286	250 29	263.09	276.54	290.68	305.54
Clerk I	162	3.1286	250.29	263 09	276 54	290.68	305.54
Data entry operator I	199	3 7626	301 01	316.41	332.61	349.61	367 50
Extra help	162	3.1286	250.29	263.09	276.54	290.68	305.54
Marshal	403	10 4091	832 73	875 31	920 08	967.14	1016 60
Assistant marshal	375	9 0523	724.18	761 22	800 15	841.07	884 00

Marshal's sergeant .	330	7.2321	578.57	608.15	639 27	671 99	706 35
Deputy marshal .	295	6 0737	485 90	510 74	536 86	564.32	593.18
Assistant clerk-administrator of the municipal court . .	332	7.3046	584.37	614 25	645 69	678.73	713.40
Municipal Court clerk ..	233	4 4583	356.66	374 90	394 07	414.23	435 41

SEC 10. Section 74644.1 of the Government Code is amended to read·

74644 1. (a) Marshal's sergeants and deputy marshals shall receive such initial and annual uniform allowances as may be provided by resolution or ordinance to those employees of the sheriff's department of Santa Barbara County who are classified as sheriff's deputies.

(b) The administration of the salary plan provided by this article including the hiring rate, increases within range, salary on promotion, and salary on position reclassification, shall be in accordance with the current personnel rules and salary ordinance of the County of Santa Barbara.

On and after July 2, 1973, the following regulations will govern the administration of the classification and compensation schedule contained in this article:

(1) Except as otherwise provided in this article, all employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and shall be subject to the same rules and regulations concerning length of workweek, anniversary dates and changes thereof, as is now or may be provided by ordinances and policies approved by the Board of Supervisors of Santa Barbara County for other employees of the county

Civil service rules governing recruitment and selection in the County of Santa Barbara at this time shall be the rules for recruitment and selection in this municipal court district.

Nothing in this article shall be construed to place the marshal's or clerk's office, their employees and other municipal court attachés under the civil service system of Santa Barbara County but such employees and attachés may be placed under the county's civil service system by court rule adopted by judges of this municipal court All persons holding positions in the marshal's office at the time of being placed under the county's civil service system, shall continue in their respective positions without further examination or qualification

SEC. 11 Section 74644 2 of the Government Code is amended to read

74644 2 Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries

mentioned in this article.

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of chief deputy of the municipal court, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage

(b) Whenever a different compensation is established for the position now and hereafter designated in the Santa Barbara County salary ordinance as account clerk III; account clerk II; account clerk I, clerk-typist III; clerk-typist II; clerk-typist I; clerk I; data entry operator II; and extra help, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of account clerk III; account clerk II; account clerk I; clerk-typist II; clerk-typist I; clerk I; data entry operator II; and extra help under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of marshal's sergeant, and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage

(d) Employee classes allocated to the management or department head representation units in the County of Santa Barbara shall receive increases or decreases in compensation or other benefits as resolved by the board of supervisors on the effective date of the resolution. These classes are clerk-administrative officer of the municipal court, assistant clerk-administrative officer of the municipal court, marshal and assistant marshal.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date.

SEC 12 Section 74644.4 of the Government Code is amended to read

74644 4 (a) Employees in the classification of deputy marshal and marshal's sergeant who are graduates of an accredited college or university shall be entitled to receive additional compensation, separate from the basic salary, as follows

(1) Such employees holding an associate of arts degree or associate of science degree shall be paid allowances of 2½ percent of their respective basic salary

(2) Such employees holding a bachelor's degree shall be paid allowances of 7½ percent of their respective basic salaries.

(b) Employees in the classifications of deputy marshal and marshal's sergeant who hold a valid intermediate or advanced certificate issued by the California State Commission on Peace Officer Standards and Training, shall be entitled to receive additional compensation as follows:

(1) Such employees holding an intermediate certificate shall be paid allowances of 2½ percent of their respective basic salary.

(2) Such employees holding an advanced certificate shall be paid allowances of 7½ percent of their respective basic salary.

(c) Any such employee who has qualified under subdivision (a) or (b) above, shall be paid an allowance of 2½ percent of his basic salary, in addition to that authorized under subdivisions (a) and (b), after satisfactorily completing thirty (30) additional semester or equivalent quarter units in specific educational fields, as designated and approved by the personnel director of the County of Santa Barbara and by the marshal.

(d) If any such employee possesses an associate of arts degree or a bachelor's degree and a valid intermediate or advanced certificate issued by the California State Commission on Peace Officer Standards and Training, he shall be entitled to receive additional compensation for only one of these achievements.

(e) The additional compensation provided by this section shall be paid only upon certification by the marshal to the Auditor-Controller of the County of Santa Barbara, on forms prescribed by the auditor-controller, of the names of the employees entitled to receive such additional compensation. Persons receiving the additional compensation provided by this section shall obtain appropriate certificates issued by the California State Commission on Peace Officer Standards and Training, when due, or else additional compensation shall cease. Such additional sums are payable as allowances and are not a part of the basic salary.

SEC. 13. Section 74657 of the Government Code is amended to read:

74657. There shall be one clerk/administrative officer of the municipal court, one assistant clerk/administrative officer of the municipal court, one municipal court clerk, one clerk-typist III, one clerk-typist II, and extra help workers as needed, each of whom shall receive a salary in accordance with Sections 74658 and 74658.1.

SEC. 14. Section 74658 of the Government Code is amended to read:

74658. (a) The biweekly salaries for the following classes of positions shall be, and shall be increased in accordance with the schedule set forth below:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk/ administrative officer of the municipal court	346	$7 8329	$626.63	$658.71	$692 40	$727.81	$765.02
Assistant clerk/ administrative officer of the municipal court	305	6 3843	510.74	536 86	564 32	593.18	623 51
Municipal court clerk	233	4.4583	356 66	374.90	394 07	414.23	435.41
Marshal	380	9.2809	742 47	780.44	820 36	862.31	906 42
Deputy marshal— Lompoc	295	6 0737	485.90	510.74	536 86	564.32	593.18
Clerk-typist III	208	3 9354	314 83	330.95	347 87	365.66	384.37
Clerk-typist II	181	3 4395	275.16	289 23	304.02	319.58	335 94

Extra help worker as needed (to be compensated in accordance with the salary ordinance of Santa Barbara County)

All figures in columns A, B, C, D and E represent dollars for each biweekly pay period

(b) The administration of the salary plan provided by this article including the hiring rate, increases within range, salary on position classification shall be in accordance with the current personnel rules and salary ordinance of the County of Santa Barbara.

(c) On the effective date of this article, the following regulations will govern the administration of the classification and compensation schedule contained herein·

(1) Except as otherwise provided in this article, all employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and shall be subject to the same rules and regulations concerning length of workweek, anniversary dates and changes thereof, as is now or may be provided by ordinances and policies approved by the Board of Supervisors of Santa Barbara County for other employees of the county. Civil service rules governing recruitment and selection in the County of Santa Barbara at this time shall be the rules for recruitment and selection in this court district

Nothing in this article shall be construed to place the marshal's or clerk's office, their employees and other municipal court attachés under the civil service system of Santa Barbara County, but such employees and attachés may be placed under the civil service system by court rule adopted by the judges of the municipal court

(2) For purposes of this article, an employee, unless otherwise

designated, refers to every person filling any position established by Sections 74657 and 74657.1.

SEC. 15. Section 74658.1 of the Government Code is amended to read:

74658 1. Notwithstanding any other provision of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk-typist III, clerk-typist II and extra help worker under this article the percentage of such increase or decrease shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of deputy marshal—Lompoc under this article, shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(d) Employee classes allocated to the management or department head representation units in the County of Santa Barbara shall receive increases or decreases in compensation or other benefits as resolved by the board of supervisors on the effective date of the resolution. These classes are clerk/administrative officer of the municipal court, assistant clerk/administrative officer of the municipal court, and marshal.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes, unless ratified by the Legislature

SEC. 16. Notwithstanding Section 2231 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any costs incurred by it under this act because this act is in accordance with the request of a local governmental entity which desires legislative authority to carry out the program specified in this act.

CHAPTER 1431

An act to add Chapter 6 (commencing with Section 17300) to Part 2 of Division 7 of, the Business and Professions Code, relating to unfair trade practices.

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Chapter 6 (commencing with Section 17300) is added to Part 2 of Division 7 of the Business and Professions Code, to read:

CHAPTER 6 DUPLICATION OF MANUFACTURED PARTS

17300. (a) It shall be unlawful for any person to duplicate for the purpose of sale any manufactured item made by another without the permission of that other person using the direct molding process described in subdivision (b).

(b) It shall be unlawful for any person to sell an item duplicated in violation of subdivision (a).

(c) The direct molding processes subject to this section is any direct molding process in which the original manufactured item was itself used as a plug for the making of the mold which is used to manufacture the duplicate item.

(d) The provisions of this section shall apply only to items duplicated using a mold made on or after January 1, 1979.

17301 Any person injured by a violation of the provisions of this chapter may bring an action in a court of competent jurisdiction for an injunction prohibiting such violations. In addition, the injured person shall be entitled to actual damages incurred as a result of such violations, reasonable attorney's fees, and costs.

CHAPTER 1432

An act to add Chapter 10.2 (commencing with Section 25906) to Division 20 of the Health and Safety Code, relating to skateboard parks

[Became law without Governor's signature October 1, 1978 Filed with Secretary of State October 1, 1978]

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

SECTION 1 Chapter 10.2 (commencing with Section 25906) is added to Division 20 of the Health and Safety Code, to read

CHAPTER 10.2. SKATEBOARD PARKS

25906. No operator of a skateboard park shall permit any person to ride a skateboard therein, unless such person is wearing a helmet, elbowpads, and kneepads.

CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS

1977–78

REGULAR SESSION

1978 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 80—Relative to commending Charles Warren.

[Filed with Secretary of State January 12, 1978.]

WHEREAS, Charles Warren has left the Assembly to become Chairman of the Council on Environmental Quality in the federal government, following an illustrious career in the Legislature during which he has made an exceptional contribution to improving the quality of California life and resolving the acute problems associated with the development of California's resources; and

WHEREAS, A native of Kansas City, Missouri, and a World War II veteran, serving overseas with the infantry, he studied at Yale University and the University of California, where he received his B.A. degree in Economics in 1949, and was awarded an LL.B. degree from Hastings College of Law in 1952; and

WHEREAS, Elected to the Assembly in 1962 from the 56th, later the 46th, Assembly District, which comprises a portion of downtown Los Angeles, he has held many prominent positions of leadership in his party and served as Chairman of the Democratic State Central Committee from 1966 to 1968; and

WHEREAS, Serving as Chairman of the Assembly Committee on Resources, Land Use, and Energy and as an active member of the Criminal Justice and Water Committees, he authored many farsighted statutes, including California's landmark Energy Resources Conservation and Development Act; and

WHEREAS, During his service in the Legislature, Assemblyman Warren acquired a national reputation for his knowledge of environmental and energy problems and his effective legislative efforts in these areas and also served as Chairman of the Energy Task Force of the National Conference of State Legislatures and as a member of the Environmental Advisory Committee of the Federal Energy Administration; and

WHEREAS, Selected as the Environmental Legislator of 1974 by the Planning and Conservation League, Assemblyman Warren's outstanding abilities and profound dedication to his work and to the people of this state will be greatly missed by the California Legislature; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members commend Charles Warren for dedicated service in the California Legislature and extend to him best wishes for success in his future responsibilities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Charles Warren.

156—648 100

RESOLUTION CHAPTER 2

Senate Constitutional Amendment No. 45–A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Article XXII and by repealing Section 4 of Article IV, Section 12 of Article V, and Sections 19 and 20 of Article VI, relating to compensation, expenses and retirement of elected officials.

[Filed with Secretary of State January 24, 1978.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at the 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That Section 4 of Article IV is repealed.

Second—That Section 12 of Article V is repealed.

Third—That Section 19 of Article VI is repealed.

Fourth—That Section 20 of Article VI is repealed.

Sixth—That Article XXII is added to read:

ARTICLE XXII

CALIFORNIA ELECTED OFFICIALS COMPENSATION COMMISSION

SECTION 1. The California Elected Officials Compensation Commission consists of seven members appointed as provided in this article to establish the compensation and benefits of California elected officials.

SEC. 2. The membership of the commission shall be as follows:

(a) Three members, appointed by the Governor with one member of the Fair Political Practices Commission who is the current or former chairman of that commission, one member of the Commission on California State Government Organization and Economy who is the current or former chairman of that commission, and one member of the State Personnel Board who is the current or former president of that board;

(b) Two members, selected by a majority of the Governor's appointees under subdivision (a), with one from a statewide, nonprofit, nonpartisan organization which is dedicated to the education of the electorate or the improvement of government, and the other from a statewide, nonprofit, nonpartisan organization of California taxpayers concerned with the efficiency in the collection and expenditure of public funds; and

(c) Two public members who shall not be representatives of the categories set forth in this section, with one such member appointed by the Governor and the other by the Judicial Council. Such Judicial Council appointee shall not be a present or past member of the

judiciary.

The appointing powers, in selecting the members of the full commission, shall strive to provide a balanced representation of the general population of the state in regard to such factors as age, sex, ethnicity, and income. Any appointee to the commission shall be a person whose salary or other emoluments are not affected by any decisions of the commission.

The Governor shall make the appointments to the commission under subdivisions (a) and (c) on the second Monday after January 1 of each odd-numbered year.

The chairman of the commission shall be selected by the members of the commission.

The members of the commission to be appointed pursuant to subdivision (b) and the Judicial Council pursuant to subdivision (c) shall be appointed within 30 days of the date upon which appointments to the commission are made under subdivisions (a) and (c) by the Governor. The appointing powers shall appoint members to fill vacancies, except vacancies which occur upon the expiration of the term of office of the commissioners, within 30 days of the occurrence of the vacancy. In the event that one or more of the governmental agencies from which the Governor is required to select a commission member is no longer in existence at the time appointments are required, the Governor shall select an appointee from among the former chairmen of such agencies or an appointee from among the chairmen or former chairmen of successor agencies, or if none exists, similar agencies.

In the event the Governor fails to make the appointments within the prescribed time, the current chairman of the agencies or successor agencies, or, if none exists, similar agencies specified in subdivision (a) shall meet within 30 days from the expiration of the time for appointment by the Governor and shall appoint the members of the commission according to the requirements placed upon the Governor by the provisions of this subdivision.

SEC. 3. The commission, after publication of notice, shall hold public meetings to accomplish its duties. The commission shall by the end of the then current fiscal year, by a single resolution adopted by a majority of the membership, establish the annual salary, retirement, insurance, and other benefits of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, the members of the State Board of Equalization, justices and judges of courts of record, and Members of the Legislature. The commission shall also establish, by the same resolution, the rate for the reimbursement of travel expenses and living expenses, including the amount of per diem, if any, incurred by such officials. Such salary, retirement, insurance, and other benefits, and expenses and the commission's resolution shall become effective on the commencement of the regular session commencing after the next general election following the ratification of the resolution by a

concurrent resolution of the Legislature, adopted by a majority vote of the members of each house thereof.

SEC. 4. On and after the effective date of this article, the salary, retirement, insurance, and other benefits of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, the members of the State Board of Equalization, justices and judges of courts of record, and Members of the Legislature shall be established only as provided in this article. However, until so established, each such elected official shall continue to receive the same salary, retirement, insurance, and other benefits as such elected official was eligible to receive immediately prior to the effective date of this article and, in addition thereto, any increases authorized prior to the effective date of this article commencing after such date.

SEC. 5. Subsequent to January 1 next following ratification of the commission's resolution, no elected official subject to this section shall be provided with an automobile except as established by the commission for official business. Such vehicles, when authorized, shall be made available for such uses as are reasonably necessary to make the official available for, and to carry out, the official's duties and responsibilities.

SEC. 6. No elected official subject to this article shall be eligible for health care benefits or insurance, except to the extent such benefits and insurance are established by the commission and do not exceed the benefits and insurance that are available to the majority of state employees in the civil service; provided, that a judge of the superior or municipal court may elect, in lieu of coverage by the state, to be covered by health care benefits or insurance provided to officers or employees of the county in which the judge sits.

SEC. 7. For service rendered prior to the effective date of a resolution of the commission establishing the retirement rights and retirement benefits, such rights and benefits shall be fixed on the basis of the law as it existed on the effective date of this article and such rights and benefits shall not be diminished by action of the commission. For service rendered after the effective date of a resolution of the commission establishing such rights and benefits, those rights and benefits shall be fixed on the basis of the resolution of the commission in effect during the time the service was rendered and shall not thereafter be diminished by action of the commission.

SEC. 8. Upon ratification of the commission's resolution, or in the event that such resolution is not ratified, upon the adjournment sine die of each session of the Legislature, the term of office of the commissioners shall expire. Successor commissioners shall be appointed in the manner prescribed by Section 2 and their terms of office shall expire as provided in this section.

SEC. 9. All commissioners shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member of the commission who does not hold any other salaried state office shall be compensated at

the same rate as members, other than the chairman, of the Fair Political Practices Commission for each day engaged in official duties, not to exceed 45 paid working days. All meetings of the commission shall be public.

SEC. 10. The State Personnel Board and the Public Employees' Retirement System or its successor shall furnish such additional staff and services to the commission as are required for performance of the commission's duties.

SEC. 11. The Legislature shall provide funds for the support of the commission.

SEC. 12. If any part or provision of this article, or the application thereof to any person or circumstance, is held invalid, the remainder of the article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this article are severable.

RESOLUTION CHAPTER 3

Assembly Joint Resolution No. 31—Relative to tuna fishing.

[Filed with Secretary of State January 24, 1978.]

WHEREAS, Tuna is a source of high quality protein for a large proportion of the American people, particularly senior citizens and others on fixed incomes; and

WHEREAS, The tuna industry, which is itself an important industry in California upon which several other service industries rely, is both a source of employment and a source of state revenues; and

WHEREAS, United States fishermen are the only fishermen in the world currently required to take any precaution at all relative to protection of the porpoise; and

WHEREAS, If the United States removes its tuna fishing fleet and other nations assume the United States' quota for certain kinds of tuna, it is certain that there would be an increase in the number of porpoise killed; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take whatever actions are necessary to resolve the impasse between the tuna industry and the federal government relative to porpoise kills, and to review existing laws and regulations to ascertain if any adjustments may be made in tuna quotas; and be it further

Resolved, That the Legislature of the State of California memorializes the President to commence negotiations with other nations for the purpose of concluding an expanded treaty relative to

tuna quotas and the killing of porpoise, which would insure that fishermen of all nations operate under the same rules, and would contribute to the protection of the world population of porpoise, as well as permit our fishermen to compete on an equal basis with other fishermen of the world; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 31—Relative to public transportation.

[Filed with Secretary of State February 8, 1978.]

WHEREAS, The Department of Transportation has developed educational aids to introduce the state's student population to the role of transportation in our society and the use of public transportation in certain areas of the state; and

WHEREAS, Such educational aids are now used on a voluntary basis by individual schools with the assistance of local public transportation operators; and

WHEREAS, The lack of general knowledge about the availability and use of public transportation discourages greater use of these services; and

WHEREAS, The lack of knowledge of special public transportation services that are available to the elderly and handicapped also discourages the full use of these services; and

WHEREAS, It is in the interest of the state that all residents be made aware of the potential and availability of public transportation and the use of services available locally; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation and the Departments of Education, Aging, and Rehabilitation are requested cooperatively to review and evaluate the present voluntary educational programs in public transportation and the present information dissemination programs for special public transportation services; and be it further

Resolved, That the Department of Transportation, with the cooperation of the Departments of Education, Aging, and Rehabilitation, is requested to submit a report to the Legislature by July 1, 1979, which evaluates the various approaches which may be used to extend the current educational programs to reach additional students and evaluates the quality and manner of distribution of

information to the elderly and handicapped; and that the report should identify and contain recommendations relating to all of the following:

(a) Those areas of the state which would profit most by an educational program in public transportation and in which areas such a program should be instituted.

(b) The appropriate student grade levels for the offering of instruction.

(c) The appropriate instruction materials and techniques.

(d) The potential role of the local public transportation operators and transportation planning agencies in preparing materials and assisting in the instruction.

(e) Methods of limiting program costs and securing program funding.

(f) Methods to improve the quality and distribution of information to the elderly and handicapped relating to available public transportation services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation, the Superintendent of Public Instruction, the Director of the Department of Aging, and the Director of Rehabilitation.

RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 66—Relative to the fetal alcohol syndrome.

[Filed with Secretary of State February 8, 1978.]

WHEREAS, The clinical experience of an increasing number of physicians reveals the existence of a clearly identifiable fetal alcohol syndrome that is present in some of the offspring of chronic alcoholic women, and that the syndrome includes the symptoms of low-weight babies, microcephaly resulting in mental retardation, and certain congenital abnormalities; and

WHEREAS, Recent large-scale prospective studies on pregnant women indicate an increased risk for reduced birth weight, congenital abnormalities, and behavioral abnormalities in early infancy in the offspring of women who consume large quantities of alcohol during pregnancy; and

WHEREAS, Results from the extensive study of 55,000 pregnancies done by the National Institute of Neurological Diseases and Stroke show a perinatal mortality rate of 17 percent and the presence of mental deficiency among 44 percent of the surviving children of chronic alcoholic women; and

WHEREAS, Animal studies on rodents, dogs, swine, and rabbits offer strong evidence that the heavy consumption of alcohol during

pregnancy results in spontaneous abortions, stillbirths, congenital anomalies, reduced birth weight, and behavioral anomalies in offspring; and

WHEREAS, Data from large-scale studies of pregnant women, which indicate that a minimum of 2 to 3 percent of pregnant women consume large doses of alcohol (over one ounce of absolute alcohol daily), suggest that the potential number of damaged offspring is quite large; and

WHEREAS, The National Institute of Alcoholism and Alcohol Abuse has issued a warning on the use of alcohol by pregnant women; and

WHEREAS, Women have the right to be fully informed of the potential detrimental effect on their offspring from continued heavy alcohol consumption during pregnancy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Office of Alcoholism, in consultation with the State Department of Health, prepare a draft of a pamphlet on fetal alcohol syndrome which could be distributed to pregnant women and women who might become pregnant, and that the pamphlet shall contain information on the potential risks to the unborn fetus when a pregnant woman consumes moderate to heavy quantities of alcohol; and be it further

Resolved, That the Office of Alcoholism, in consultation with the State Department of Health, develop a plan for statewide distribution of the pamphlet so that the pamphlet will be available to as large a number of pregnant women as possible and to large segments of women most likely to become pregnant, and that the plan include estimates of the cost for such distribution; and be it further

Resolved, That the Office of Alcoholism submit the draft of the pamphlet and the plan for distribution to the Assembly Subcommittee on Mental Health and Developmental Disabilities and the Senate Committee on Health and Welfare by April 1, 1978; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the Director of the Office of Alcoholism and the Director of Health.

RESOLUTION CHAPTER 6

Assembly Constitutional Amendment No. 34—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 2 of Article XII thereof, relating to the Public Utilities Commission.

[Filed with Secretary of State February 14, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 2 of Article XII thereof, to read:

SEC. 2. Subject to statute and due process, the commission may establish its own procedures.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 90—Relative to the Agricultural Labor Relations Board.

[Filed with Secretary of State February 14, 1978.]

WHEREAS, During the hearings on the 1977–78 Budget, the Assembly Ways and Means Committee and the Budget Conference Committee adopted a recommendation of the Legislative Analyst regarding the procedure for recovering the cost of transcripts resulting from hearings held by the Agricultural Labor Relations Board; and

WHEREAS, The implementation of this procedure has resulted in increased costs to the ALRB, rather than the savings which had been anticipated; and

WHEREAS, This procedure has had the additional effect of making the cost to the parties for such transcripts prohibitively expensive; and

WHEREAS, The Joint Committee to Oversee the Agricultural Labor Relations Board, after hearing considerable testimony regarding the impact of this procedure, has recommended unanimously that this procedure be modified to permit a more equitable sharing of the costs of these transcripts; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature that the cost of litigation before the Agricultural Labor Relations Board be reduced as much as practical and that the board develop procedures for sharing the cost of transcript preparation with the parties requesting such transcripts; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each member of the Agricultural Labor Relations Board.

RESOLUTION CHAPTER 8

Senate Joint Resolution No. 13—Relative to the National Health Planning and Resources Development Act of 1974.

[Filed with Secretary of State February 15, 1978.]

WHEREAS, The National Health Planning and Resources Development Act of 1974 (Public Law 93-641) was signed into law on January 4, 1975; and

WHEREAS, The Act was vigorously opposed by state and county governments across the country because it (1) provides for the establishment of nongovernmental entities known as health systems agencies across the country to perform governmental functions, ignoring the role of county and state governments in the planning and implementation of health services and health resources within the state, (2) vests the Secretary of Health, Education, and Welfare with authority which should be vested in state legislatures and governors, and (3) requires each state legislature to authorize the creation of a State Health Coordinating Counsel empowered to direct and implement state health policy, which is answerable to the Secretary of Health, Education, and Welfare rather than state government; and

WHEREAS, The Act authorizes the Secretary of Health, Education, and Welfare to fund, direct, monitor, and control the local health systems agencies and to require them to perform functions which have significant impact on health services and resources at the local and state levels; and

WHEREAS, The National Governors' Conference has declared its opposition to the Act as inimical to the interests of the states; and

WHEREAS, Some states have filed suit against the Federal Government aimed at having the Act declared unconstitutional; and

WHEREAS, The Act includes heavy sanctions for any state which fails to carry out the provisions of the Act, which in California would not become applicable until 1980 due to our two-year legislative sessions; and

WHEREAS, The Act expires June 30, 1977, and efforts are already underway to extend it, with hearings on extensions scheduled for April or May of 1977; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California, by reason of its opposition to implementation in California of the Health Planning and Resources Development Act of 1974, respectfully memorializes the Congress of the United States to amend such act to ensure that health services and health resources within the boundaries of the State are planned, directed, and provided under state legislative and executive authority and not under direction of the Secretary of Health, Education, and Welfare, and be it further

Resolved, That the Legislature requests the Governor, the Health

and Welfare Agency, and the State Department of Health to discourage implementation of the act, as written, in California and to join in other state and county efforts to achieve the purposes of this resolution; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Secretary of the Health and Welfare Agency, the Director of Health, the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 54—Relative to truck weight limits.

[Filed with Secretary of State February 16, 1978.]

WHEREAS, The Federal-Aid Highway Act of 1974 increased the vehicle weight limits on the National System of Interstate and Defense Highways; and

WHEREAS, Chapter 651 (A.B. 1352) of the Statutes of 1975 increased the truck weights permitted on the various highway systems in the State of California; and

WHEREAS, Chapter 166 (A.B. 2781) of the Statutes of 1976 made modifications in the truck weights permitted for certain vehicles; and

WHEREAS, Modifications have been made in the Vehicle Code to accommodate specific highway problems attributable to increased truck weights in particular counties; and

WHEREAS, There is substantial evidence in technical reports published by the state and federal governments that the increased truck weights are causing increased maintenance and operating costs on all of the various highway systems in the state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Department of Transportation is hereby urged to develop proposed revisions to provisions of the Vehicle Code governing the rights of local authorities in restricting the use of their highways and bridges to heavy trucks; and be it further

Resolved, That the department is requested to appoint an advisory committee consisting of representatives from the County Supervisors Association of California, the League of California Cities, the Regional Council of Rural Counties, the California Trucking Association, the California Teamsters, the Department of the California Highway Patrol, the California State Automobile

Association, the Automobile Club of Southern California, the Pacific Merchant Shipping Association, and public utility entities to aid in developing the proposed revisions; and be it further

Resolved, That the department is requested to report the recommendations to the Legislature not later than October 1, 1978; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 52—Relative to the Maltester-Polvorosa Overpass.

[Filed with Secretary of State February 24, 1978.]

WHEREAS, The Federal Highway Administration, on February 1, 1977, approved the Environmental Impact Statement for the construction of a $5,186,000 grade separation structure on Davis Street (State Highway Route 112) between Doolittle Drive and Warden Avenue in the City of San Leandro; and

WHEREAS, Davis Street presently crosses at grade a busy railroad switchyard, resulting in traffic being held up for long periods while switching operations are being conducted and making the crossing a dangerous one at any time; and

WHEREAS, Mayor Jack D. Maltester and Vice Mayor Mario Polvorosa worked tirelessly for 10 years for the construction of the grade separation structure; and

WHEREAS, Through their persistence and determination, the structure has moved to a position on the priority list for the construction of grade separation projects so that construction is scheduled to commence in the fall of 1978; and

WHEREAS, The people of Alameda County will benefit immeasurably in safety and time upon completion of the grade separation structure; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the grade separation structure to be constructed on Davis Street (State Highway Route 112) between Doolittle Drive and Warden Avenue in the City of San Leandro is hereby officially designated the Jack D. Maltester-Mario Polvorosa Overpass; and be it further

Resolved, That the Department of Transportation erect appropriate signs and markers, consistent with signing requirements for the state highway system, showing this official designation; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 55—Relative to insurance.

[Filed with Secretary of State March 3, 1978.]

WHEREAS, Physical education is a necessary and integral part of a student's school program; and

WHEREAS, Sports activities involve community participation and bring families together by mutual interest in such activities; and

WHEREAS, A student's academic achievement is directly affected by the physical state and health of a student, and physical education must always be encouraged throughout our public school systems; and

WHEREAS, Current insurance rates are escalating beyond the financial ability of school districts to continue maintaining liability insurance for many physical education activities; and

WHEREAS, Increasing insurance costs have necessitated public school officials to terminate insurance coverage of many sports activities and thus curtail many physical education courses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Committee on Tort Liability of the California Legislature immediately undertake a study into the problems affecting insurance liability rates for public school physical education courses and activities; and be it further

Resolved, That the Joint Committee on Tort Liability specifically report its findings and make recommendations to the Legislature by December 31, 1978.

RESOLUTION CHAPTER 12

Assembly Joint Resolution No. 53—Relative to Aid to Families with Dependent Children.

[Filed with Secretary of State March 3, 1978.]

WHEREAS, Federal law governing eligibility requirements for Aid to Families wi th Dependent Children continues to discriminate against two-parent families in favor of single-parent families and thus is detrimental to family unity; and

WHEREAS, Single-parent families who qualify for AFDC benefits are entitled to retention of some AFDC assistance in addition to earned income; that is, welfare departments discount $30 and another one-third of any earnings in computing their monthly income and then base payments, if any, on the remaining income; and

WHEREAS, Two-parent families within the AFDC-U program are

not allowed this discount to encourage work and moreover, almost without exception, fathers are designated head of household although mothers may be economically more productive; and

WHEREAS, Such AFDC-U father will be terminated from further assistance if he works more than 100 hours in any calendar month, regardless of the amount of wages received, even if the earned income is less than the previous AFDC grant; and

WHEREAS, This policy is a disincentive to work because AFDC-U fathers cannot upgrade their skills or work at minimum or marginal wage occupations full time without depriving their families of higher income; and

WHEREAS, California would lose all federal participation in its AFDC-U program if California were to institute aid on a sliding scale for fathers working more than 100 hours a month; and

WHEREAS, The State of California through its Health and Welfare Department and its Employment Development Department has submitted several proposals to have the federal government waive the "100-hour rule" for California, but yet to no avail; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to eliminate the AFDC-U "100-hour rule," and supersede it with a sliding scale of benefits to provide an incentive to work, to end the bias against two-parent families; and be it further

Resolved, That in the determination of eligibility for Aid to Families with Dependent Children, Congress shall stipulate that there shall be no discrimination against any applicant for or recipient of such aid or services by reason of race, color, religious creed, national origin, sex, marital status, physical handicap or political belief; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health, Education and Welfare of the United States.

RESOLUTION CHAPTER 13

Assembly Joint Resolution No. 55—Relative to student tuition for residents of United States possessions.

[Filed with Secretary of State March 3, 1978.]

WHEREAS, It has come to the attention of the California Legislature that many residents of United States possessions are

unable to participate in educational opportunities available to United States residents; and

WHEREAS, United States possessions and trust territories frequently have no accredited institution of higher learning in which students of those areas may pursue professional or career studies; and

WHEREAS, In order to pursue their educational goals, those students must attend colleges and universities on the mainland and pay the additional tuition charges which such institutions generally impose on out-of-state residents; and

WHEREAS, It is in the best interests of the United States that residents of United States possessions and trust territories receive educational opportunities equal to those available to students residing on the mainland; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes Congress to give consideration to the enactment of legislation whereby the United States would alleviate the hardships of residents of United States possessions and trust territories by making available tuition grants for the payment of out-of-state tuition imposed upon such persons when attending an accredited college or university in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 14

Assembly Joint Resolution No. 68—Relative to service pensions for veterans of World War I.

[Filed with Secretary of State March 3, 1978]

WHEREAS, Legislation has been introduced in Congress to provide a pension to veterans of World War I or their surviving spouses; and

WHEREAS, The persons who would receive benefits under such a bill are certainly deserving and in need of such benefits; and

WHEREAS, Such persons are generally not eligible for the wider range of benefits available to veterans of later wars and it is most fitting and proper for veterans of World War I to receive additional benefits under the provisions of the legislation; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation which provides increased service pension benefits

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for veterans of World War I and for certain survivors of such veterans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 106—Relative to child abuse.

[Filed with Secretary of State March 8, 1978.]

WHEREAS, The tragedy of child abuse strikes many California families each year, and can be found in all cultural, ethnic, occupational, and socioeconomic groups; and

WHEREAS, While approximately 63,000 cases are reported yearly, many incidents remain unreported by abusing parents, friends, neighbors, or professionals in contact with the abused child, due to fear of prosecution, uncertainty, embarrassment, or unwillingness to become involved; and

WHEREAS, Abuse results in extreme physical and mental damage to children, disintegration of the family, and perpetuation of violence in our society; and

WHEREAS, The abused child and abusing adult can be helped if cases are reported and if abusers are made aware of services available; and

WHEREAS, Designation of a period of time during which the people of California might focus on child abuse would be of great assistance in stimulating awareness of the problem, increasing reporting, and encouraging abusers to seek assistance; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature declares March 5-11, 1978, to be Child Abuse Awareness Week.

RESOLUTION CHAPTER 16

Senate Concurrent Resolution No. 62—Relative to memorializing the Honorable Lucius Powers, Jr.

[Filed with Secretary of State March 10, 1978.]

WHEREAS, It was with the most profound sorrow that the Members of the Legislature learned of the passing of a former

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Member of the Assembly of the State of California, Lucius Powers, Jr., much of whose life was devoted to public service in our state; and

WHEREAS, Assemblyman Powers attended the University of California at Berkeley, where he played on the Bears football team from 1921 to 1924, and graduated from Boalt Law School; and

WHEREAS, During his tenure as Assemblyman for the 36th District from 1929 to 1933, he led a campaign to set up a four-year state college in Fresno and to build a new Yosemite highway, now Highway 41, from Fresno to Yosemite; and

WHEREAS, He also led the campaign to organize the Bullard School District and served as a member and clerk of the Board of Trustees for several years, where Powers Elementary School was named in his honor; and

WHEREAS, Assemblyman Powers was a co-founder of the Wine Institute of California, a member of the Society of Pioneers and a member of the Board of Directors of the Fresno-Madera Chapter of the American Red Cross; and

WHEREAS, He also gave extensively of his time and energy on behalf of the community as a member of the Las Palmas No. 366, Shrine; the Scottish Rites; the Hi 12 Club; the Rotary Club; the Elks Club; Kappa Sigma fraternity; Phi Delta Phi law fraternity; and the University of California Alumni Council; and

WHEREAS, He is survived by his wife, Geraldine; two daughters, Paula Brown and Diana Ellsworth; a sister, Martha Harrington; and two grandchildren; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their deepest sympathy at the passing of the Honorable Lucius Powers, Jr., and by this resolution, memorialize his illustrious record of personal and professional achievements on behalf of his community and state, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Geraldine Powers, Paula Brown, Diana Ellsworth, and Martha Harrington.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 101—Relative to the Easter recess.

[Filed with Secretary of State March 10, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring,

First—That following its meeting on March 16, 1978, each house of the Legislature shall be in recess from such time as it determines,

including the period from March 17, 1978, until March 27, 1978;

Second—The desks of the Senate and Assembly shall remain open, during such recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the Committee on Rules to a standing committee. Bills received at the Assembly desk during such periods shall be numbered, referred by the Speaker to a committee, and be printed. After printing, such bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred.

Third—That the Secretary of the Senate and the Chief Clerk of the Assembly shall cause to be printed, during the Easter recess, a Senate Daily Journal and Assembly Daily Journal and Senate and Assembly Daily and Weekly Histories.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 82—Relative to the new state office building in Long Beach.

[Filed with Secretary of State March 13, 1978.]

WHEREAS, The State of California is presently constructing a state office building in the City of Long Beach; and

WHEREAS, The new state office building is being constructed on the site of the former Veterans' Building; and

WHEREAS, Veterans have served their nation well in time of war and have made significant contributions to enrich American society in time of peace; and

WHEREAS, The people of the State of California have benefited immeasurably from the selfless actions of veterans in the service of their country; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of General Services be requested to name the new state office building being constructed on the site of the former Veterans' Building in the City of Long Beach, the California Veterans' Memorial State Office Building, Long Beach; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of General Services.

RESOLUTION CHAPTER 19

Senate Joint Resolution No. 30—Relative to pest control.

[Filed with Secretary of State March 28, 1978.]

WHEREAS, The Japanese beetle (Popillia japonica) is a voracious pest that feed s on hundreds of ornamental plants and agricultural crops, which is harmful in both the adult and larval states, and poses a threat to both the urban and rural environment of this state, including field and orchard crops, floriculture and nursery stock, and backyard plantings; and

WHEREAS, The Japanese beetle heavily infests all of the states along the Atlantic seaboard but does not occur in the western half of the United States; and

WHEREAS, This pest has not yet become entrenched in California, due to the natural land barriers, but continues to be introduced by aircraft; and

WHEREAS, Millions of dollars would be required to control this pest in California, resulting in consumer price increases, if it gets out of control; and

WHEREAS, It is more efficient to pursue a course of action whereby an infestation of Japanese beetles is arrested at points of origin of well-known hazard or heavily infested areas; and

WHEREAS, The United States Department of Agriculture has conducted an eradication program in those states known to be infested, which has included insecticidal treatment of pest-hazardous airports and aircraft leaving those airports for the West Coast, thus protecting California from infestation from this pest; and

WHEREAS, The United States Department of Agriculture has determined that it cannot eradicate Japanese beetle and, thus, had not provided any funds for the eradication of this pest including airport and aircraft treatment; and

WHEREAS, The United States Department of Agriculture consented to do some airport and aircraft treatment this year, only after considerable pressure had been brought; and

WHEREAS, The United States Department of Agriculture has made no commitment to resume such treatments in the coming fiscal year or thereafter; and

WHEREAS, This year, as a sample, a total of three hundred and fifty-six Japanese beetles have been taken from aircraft arriving in California from the eastern pest-hazardous airports; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Secretary of Agriculture to take all the necessary actions to raise the priority of, and to substantially increase expenditures indefinitely for, pest-hazardous airport treatment and California-bound aircraft

treatment and to continue existing quarantine programs; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 20

Senate Joint Resolution No. 28—Relative to water supplies.

[Filed with Secretary of State April 3, 1978.]

WHEREAS, There are demands exceeding supplies of high-quality water in most of California and extending beyond its borders to the east and south, now and in the foreseeable future; and

WHEREAS, Studies indicate an abundant renewed supply of icebergs of appropriate size and characteristics, accessible for acquisition during the daylight thawing season in the Antarctic (January through March of each year), which could be a possible supplemental source of freshwater supply for the State of California; and

WHEREAS, The icebergs can be harnessed and brought slowly to deep water near areas of use with less energy required per unit of delivered water than for desalting or for transfer from any source requiring the energy equivalent to a pumping lift of more than a few hundred meters above sea level; and

WHEREAS, The icebergs must be protected from melting loss to moving seawater for efficient use at any location, and this can be done for a total delivered cost well below those for desalting or other long distance transfers at sea level; and

WHEREAS, The icebergs while moored at terminal locations serve as unique reservoirs, relatively invulnerable to earthquakes and other disasters and not threatening to the surroundings, accruing significant net condensation gain over evaporation loss, and having benign impact on most environments in which they would be converted for freshwater and cooling benefits; and

WHEREAS, The least costly way of resolving the remaining technological uncertainties appears to be to initiate a pilot program immediately to test and demonstrate alternatives in an operational environment so that more efficient designs can be selected for operational applications; and

WHEREAS, There are others (private and governmental) interested in participating in a pilot program and in absorbing major portions of the costs and benefits in an early program; and

WHEREAS, It could be important to provide a technology

assessment of this new water supply where the feasibility is demonstrated in a pilot program under strict monitoring of all environmental impacts to satisfy all local and global concerns before significant commitment is made to operational investment; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes all federal agencies with approval responsibilities to support a pilot program for technology assessment of promising a water supply from imported Antarctic icebergs for California and global interests; and be it further

Resolved, That federal approval include, among others, the following:

1. Coast Guard monitoring of operations outside of local jurisdiction for safety and environmental impact.
2. State Department and National Science Foundation with respect to Antarctic treaty obligations.
3. Army Corps of Engineers.
4. Environmental Protection Agency.
5. Pertinent federal energy agencies; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Coast Guard, the Department of State, the National Science Foundation, the Department of the Interior, the Bureau of Reclamation, the Army Corps of Engineers, and the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 21

Senate Joint Resolution No. 32—Relative to revitalization of the aerospace industry in California.

[Filed with Secretary of State April 3, 1978.]

WHEREAS, The State of California possesses an abundance of aerospace experts unmatched in this country; and

WHEREAS, Space exploration and development are critical to the country and to California; and

WHEREAS, The space shuttle inaugurates a new era of possibilities for the planet and the exploration of Jupiter by the orbiter probe, as well as conversion of the sun's rays to electricity by means of space solar power satellites which represent challenges that the people of the State of California are eminently qualified to undertake; and

WHEREAS, Governor Brown has strongly endorsed space

development and California's commitment to the aerospace industry with emphasis on the skill and quality of the state's labor force; and

WHEREAS, Despite the layoff of workers caused by cancellation of the B1 bomber, the state's aerospace industry has a bright future; and

WHEREAS, The aerospace industry has developed new technology which has a practical application in many other sectors of the state's economy; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to revitalize the California aerospace industry through usage of the state's aerospace economy; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 43—Relative to postsecondary education.

[Filed with Secretary of State April 4, 1978.]

WHEREAS, The Legislature recognizes the lack of bilingual and culturally sensitive professional personnel working in the professions which provide primary health care and legal services; and

WHEREAS, The Report to the Judicial Council on the Language Needs of Non-English-Speaking Persons on Relation to the State's Justice System, as requested by Resolution Chapter 179 of the Statutes of 1973, states that there are over 1.2 million limited- and non-English-speaking residents in the State of California; and

WHEREAS, Data has not been compiled attesting to the apparent lack of bilingual and culturally sensitive persons in the health and legal professions; and

WHEREAS, It is in the state's interest for California postsecondary educational institutions to recognize and meet legal and health needs of limited- and non-English-speaking residents, especially those in low-income and rural communities, through the admission and training of individuals who are bilingual and culturally sensitive in the languages and cultures of non-English-speaking residents; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California, the Trustees of the State University and Colleges, and the Board of

Governors of the California Community Colleges, are requested to develop plans which further the admissions, preparation and training of persons for primary care and services in all areas of health and legal professions who are bilingual and culturally sensitive in the language and cultures of limited- and non-English-speaking residents; and be it further

Resolved, That the California Postsecondary Education Commission develop model outlines for use by the postsecondary segments in preparing these plans; and be it further

Resolved, That these plans shall in no way lower standards for admission policies or training programs; and be it further

Resolved, That these plans be submitted to the Legislature and to the Regents of the University of California, the Trustees of the State University and Colleges, and the Board of Governors of the California Community Colleges by March 1, 1979; and be it further

Resolved, That the California Postsecondary Education Commission, after allowing time for sufficient legislative comment and review, integrate these plans into a comprehensive statewide plan, and report thereon to the Legislature by January 1, 1980; and be it further

Resolved, That the California Postsecondary Education Commission evaluate the progress the segments are making in the implementation of these plans and supply recommendations on said evaluation to the Legislature on January 1, 1981, and January 1, 1982; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California, the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges, and the Postsecondary Education Commission.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 74—Relative to state forms.

[Filed with Secretary of State April 4, 1978.]

WHEREAS, The cost of state-required paperwork may represent a significant cost of doing business; and

WHEREAS, Detailed information on the cost and burden of state forms to various types of businesses will enhance legislative and executive actions to minimize state paperwork costs to businesses; and

WHEREAS, The determination of the cost to businesses of all the government paperwork required in various industries will entail a long-term study and the development of a questionnaire on paperwork requirements to yield data on time and costs by type of

business; and

WHEREAS, A Commission on Federal Paperwork was appointed in October 1975, to examine the costs of federal paperwork requirements; and

WHEREAS, The federal government will have invested approximately $200,000 in the questionnaire design, evaluation technique, and the computer programming necessary to complete the federal study; and

WHEREAS, The study of federal paperwork is based on data collection and methodology that could easily be adapted to a study of state paperwork, and

WHEREAS, A detailed study of state paperwork requirements may be undertaken at relatively low cost by abstracting data from the federal study and using the research design developed for the federal study; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature expend funds to acquire the services of an independent consulting firm to conduct a study of the costs of state-required paperwork; and be it further

Resolved, That the study consist of the following phases:

(1) Abstraction of the California data from the Commission on Federal Paperwork to develop a summary and analysis of the federal data on California businesses, including, but not limited to, demographic characteristics, comparison with other states, and a comparison of state-required forms with federally required forms.

(2) Analysis of state-required forms, including but not limited to the following:

(a) Identification of state-required forms which impose the greatest cost on business by size and type of business;

(b) Comparison of state-required forms with federally required forms to determine duplication;

(c) Identification of the necessity of state forms, including the agency issuing such forms and the reason for the information required;

(d) Survey of the relevant literature and the development of hypotheses and methodology for determining the direct and indirect impact of state-required paperwork on businesses by type and size, the impact of such costs on the state's economy and the implications for business formation and profitability; and be it further

Resolved, That a report covering phase 1 be presented to the Legislature no later than six weeks after the contract is let for the study. A report covering phase 2 be presented to the Legislature no later than 20 weeks after the contract is let; and be it further

Resolved, That bids be requested immediately from not less than five independent consulting firms to perform the study as described herein; and be it further

Resolved, That the Assembly Rules Committee select the appropriate consulting company to complete the study and that the Assembly Rules Committee allocate nine thousand dollars ($9,000)

for the purposes of this resolution.

RESOLUTION CHAPTER 24

Senate Joint Resolution No. 31—Relative to state and local government pension and retirement plans.

[Filed with Secretary of State April 7, 1978.]

WHEREAS, The Internal Revenue Service is interpreting Public Law 93-406, the E mployee Retirement Income Security Act of 1974, as requiring all state and local government pension and retirement plans to file certain annual returns and reports provided for in ERISA; and

WHEREAS, ERISA indicates a clear congressional intent that state and local government plans not be regulated or file returns as interpreted by the Internal Revenue Service; and

WHEREAS, Such interpretation by the Internal Revenue Service threatens the integrity and future of state and local government pension plans by exposing them to potential tax on investment income, as well as the loss of deferred tax treatment granted beneficiaries of qualified plans; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reiterate the intent contained in the Employee Retirement Security Income Act of 1974 that state and local government pension and retirement plans are not required to file annual returns and reports under that act, and to cancel or refund any penalties imposed on such plans in the past for late filing or failure to file those returns or reports; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 25

Senate Joint Resolution No. 34—Relative to 1978 Pacific International Sail Training Races.

[Filed with Secretary of State April 7, 1978]

WHEREAS, The American Sail Training Association has organized a set of extraordinary international sailing races for 1978 which is

limited to participants from nations bordering upon the Pacific Ocean; and

WHEREAS, The events scheduled as part of "Tall Ships Pacific 1978" include three sailing races on the Pacific Ocean and attendant activities afloat and ashore to invigorate and renew our Pacific heritage; and

WHEREAS, The first race from Hawaii to Victoria, British Columbia, will be sailed over the route followed by Captain James Cook in his 1778 voyage; and

WHEREAS, On August 6, 1978, the sail training ships will start the second race from British Columbia to San Francisco and will start the final race from San Francisco to Long Beach on August 15, 1978; and

WHEREAS, The exciting races of the tall ships and accompanying festivities are eagerly awaited by thousands of people in Honolulu, Victoria, Vancouver, Seattle, San Francisco, and Long Beach; and

WHEREAS, The United States Coast Guard has not decided whether our own national sail training ship, the USCGC Eagle, will be able to participate in the 1978 Pacific International Sail Training Races; and

WHEREAS, Participation of the USCGC Eagle in this great international sailing event is in the national interest and will provide excellent training for the cadets on the USCGC Eagle; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Coast Guard to commit the USCGC Eagle to the 1978 Pacific International Sail Training Races; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the United States Coast Guard.

RESOLUTION CHAPTER 26

Assembly Joint Resolution No. 73—Relative to "National Forgotten Victims Week."

[Filed with Secretary of State April 12, 1978.]

WHEREAS, There has been insufficient attention to the rights of victims and witnesses in our society; and

WHEREAS, It is the duty of all citizens and institutions to play positive roles in improving the plight of victims of violent crime and their survivors and to restore effectiveness to the administration of criminal justice; and

WHEREAS, Better reporting of crime and greater willingness of persons to testify are essential to the control of crime and the improvement of justice; and

WHEREAS, Creating a better understanding of the rights of

victims and witnesses and the nature of our criminal justice system will help to achieve the goals of crime reduction, and the restoration of fairness and effectiveness to the administration of criminal justice; and;

WHEREAS, California was the first state to establish a crime victim compensation system and to highlight the plight of crime victims by declaring a state "Forgotten Victims Week"; and

WHEREAS, New York, Illinois and several other states are this year following California's lead by declaring their own Forgotten Victims Weeks; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to officially proclaim April 24th through the 28th, 1978, as "National Forgotten Victims Week," and to formally adopt a resolution declaring April 24th through 28th, 1978, as "National Forgotten Victims Week"; and be it further

Resolved, That public recognition of the observance of "National Forgotten Victims Week" be encouraged, and that the citizens of the United States be urged to assist in the prevention and the reporting of crime, and in the recognition expansion of public understanding of the rights of victims and witnesses, as well as the accommodations and services available to them; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 27

Assembly Concurrent Resolution No. 105—Relative to solar energy.

[Filed with Secretary of State April 12, 1978.]

WHEREAS, The promotion of solar energy is of great concern to the people of California; and

WHEREAS, Solar energy is renewable, clean, safe, and reliable; and

WHEREAS, The development of solar energy will provide great benefits to the economy of the state in the form of new jobs and many new business opportunities; and

WHEREAS, The burden on California's other sources of energy will be greatly eased by the rapid development of solar energy; and

WHEREAS, May 3rd has been designated as Sun Day, to be a national day of activity to promote solar energy; now, therefore, be

it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby declare their support in the designation of May 3rd as Sun Day, a day for the promotion of the rapid development of solar energy in California; and be it further

Resolved, That the Legislature encourages, on May 3rd, any activity throughout the state which has as its goal the promotion of solar energy.

RESOLUTION CHAPTER 28

Senate Concurrent Resolution No. 78—Relative to saluting and paying tribute to the State of Israel.

[Filed with Secretary of State April 18, 1978.]

WHEREAS, Thirty years ago the tiny nation of Israel was born out of the yearning of the Jewish people to return to their ancient homeland, out of the dire necessity to provide a refuge secure against possible reoccurrence of another Holocaust, and out of the sacrifices and hard labor and zeal of great Israeli leaders such as Abba Eban, David Ben-Gurion, Golda Meir, Yitzhak Rabin, Menachem Begin, Chaim Weizman, Moshe Dayan and others; and

WHEREAS, The United States, under the leadership of President Harry Truman, provided the support that led the United Nations to accept the reality and legality of Israel as the homeland of the Jewish people; and

WHEREAS, Since that historic period of the creation of the State of Israel, that nation has been a foremost bastion of strength for democratic ideals, representative government, and democratic practices; and

WHEREAS, Also since that historic period, Israel has been a strong front line in the American effort to curb Soviet imperialism in the Middle East; and

WHEREAS, In spite of the enormous portions of her national budget and sustenance that has had to be committed to defense, and of the horrendous toll that wars have taken of her sons and daughters, Israel has succeeded in raising the standard of living and quality of life of her people beyond that of any other people of the Middle East; and

WHEREAS, During the many years which her enemies have surrounded her with overwhelming ground forces and air forces, Israel has maintained a courageous stance reminiscent of our own history when we were confronted with superior British forces in our colonial period; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Members hereby salute the State of Israel, pay tribute to its courage, express support for its constancy in fighting for democratic ideals, voice their admiration of its quest for peace despite the numerous obstacles, and for what it has done to make the desert bloom with fruit and flowers and trees, and for what it has done to make the hearts of mankind soar with hope that justice will prevail, that the right can overcome might, that all the children of God can live together in peace; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Prime Minister Menachem Begin; Consul General of Israel, Zvi Brosh; Israeli Ambassador to the United Nations, Haim Herzog; and the Jewish Federation Council of Greater Los Angeles.

RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 138—Relative to the State Park Golden Anniversary Observance Day.

[Filed with Secretary of State April 21, 1978]

WHEREAS, In recognition of a half-century of service to the recreational and cultural needs of the people of California and the protection and management of the natural and historical resources of the state, the founding of the state park system should be honored on the occasion of its 50th anniversary; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That May 7, 1978, be designated as State Park Golden Anniversary Observance Day; and be it further

Resolved, That the Department of Parks and Recreation is requested to allow park visitors one day-use entry to any unit of the state park system without charge on that day; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Parks and Recreation.

RESOLUTION CHAPTER 30

Assembly Joint Resolution No. 76—Relative to congregate services for the elderly and the handicapped.

[Filed with Secretary of State May 1, 1978.]

WHEREAS, A California television station (KGO, Channel 7) televised on January 28 and 29, 1978, a two-hour documentary entitled "Old Age: Do Not Go Gentle" which set forth the tragic life conditions of many older persons in the United States; and

WHEREAS, The documentary proposed that the Congress of the

United States enact legislation to do the following:

(1) Require that all future federally financed public housing projects sponsored by the Department of Housing and Urban Development, wherein the tenants are to be elderly or handicapped, provide congregate services either independently or as available through the Department of Health, Education, and Welfare. Congregate services include housekeeping aid, meal service, personal assistance, ambulatory health care, and other services essential for maintaining independent living and avoiding nonmedical institutionalization.

(2) Require that such housing provide appropriate space for future establishment of a community day health services and nutrition facility which is designed to provide congregate services to the elderly and the handicapped. Within five years of the enactment of this legislation, the facility shall offer congregate services to the elderly and the handicapped within both the housing project and the project's immediate community.

(3) Require that the elderly and the handicapped be included in the delivery process for the congregate services; and

WHEREAS, The documentary invited bay area residents to register their support of this proposed legislation, and so far more than 167,000 residents have responded by mailing to the KGO television station coupons indicating support; and

WHEREAS, Older persons in our society need and have a right to a continuum of care and services to allow them a more independent and dignified way of living; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the Congress of the United States to enact and the President to approve such legislation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 31

Senate Joint Resolution No. 5—Relative to income tax deductions for new home buyers.

[Filed with Secretary of State May 5, 1978.]

WHEREAS, A new home buyer is paying substantial amounts in taxes and special fees to local California communities, which are charged to the buyer indirectly through the builder or developer of the home; and

WHEREAS, These taxes and fees are not deductible under the current rules and regulations promulgated by the Internal Revenue Service; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Internal Revenue Service to adopt legislation or regulations to allow deductions by a new home buyer for taxes and fees directly traceable to that particular new home; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the District Director of the Internal Revenue Service, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 32

Senate Joint Resolution No. 6—Relative to national air quality standards.

[Filed with Secretary of State May 5, 1978.]

WHEREAS, The Federal Clean Air Act (42 U.S.C., Sec. 1857, et seq.) requires each state to prepare, adopt and submit to the Administrator of the Environmental Protection Agency a plan which provides for the implementation, maintenance, and enforcement of each national ambient air quality standard; and

WHEREAS, The Environmental Protection Agency disapproved portions of the State Implementation Plan which California prepared and submitted in 1972, including the portion relating to the preconstruction review of new or modified stationary sources; and

WHEREAS, The State Air Resources Board failed to revise California's State Implementation Plan within the prescribed period to include an acceptable new source review procedure, and in 1973, the Environmental Protection Agency promulgated a substitute new source review regulation which it is now administering and enforcing in most parts of the state; and

WHEREAS, Under this regulation no approval to construct or modify a stationary source can be granted unless the applicant shows to the Administrator of the Environmental Protection Agency that the source will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard; and

WHEREAS, One or more of the existing national ambient air quality standards are now being exceeded in many California air basins and the enforcement of this regulation may affect the future plans of enterprises to locate or expand in California or elsewhere in the United States and may have substantial social and economic

impacts; and

WHEREAS, The standards themselves, and the validity of the evidence upon which they are based, have been the subjects of several recent investigations; and

WHEREAS, The Clean Air Act requires the Administrator of the Environmental Protection Agency from time to time to review, and modify as appropriate, the air quality criteria for each pollutant for which a national ambient air quality standard has been established; and

WHEREAS, Testimony presented to the Senate Committee on Natural Resources and Wildlife suggests that the new source review procedures approved by the Environmental Protection Agency for other parts of the United States are not as restrictive, or not as rigidly enforced, as those which the Environmental Protection Agency has promulgated for California; and

WHEREAS, Prospective enterprises and employees in California will suffer a competitive disadvantage unless the Environmental Protection Agency establishes and enforces the same uniform minimum standards for new source review in all states; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to review the present circumstances and control technologies to ascertain that the programs and timetables for compliance that are contained in the Clean Air Act, and the administrative regulations based on the act, are compatible with these circumstances and technologies and are not unrealistic and without public support; and be it further

Resolved, That the Congress request the Administrator of the Environmental Protection Agency to review the national primary ambient air quality standards to determine if they are consistent with the latest scientific evidence concerning the effects of air pollution on human health and they are appropriate for the purpose for which they were established; and be it further

Resolved, That the Congress request the Administrator of the Environmental Protection Agency to review the administration and enforcement of new source review programs throughout the United States to insure that all states are required to meet the same minimum standards; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Administrator of the Environmental Protection Agency and to each Senator and Representative from California in the Congress of the United States.

56 023464

RESOLUTION CHAPTER 33

Senate Joint Resolution No. 17—Relative to occupational safety and health.

[Filed with Secretary of State May 5, 1978.]

WHEREAS, For 60 years prior to enactment of the Federal Occupational Safety an d Health Act by Congress, California had a strong industrial safety program, considered by most safety experts to be one of the most effective in the nation; and

WHEREAS, Passage of the Federal Occupational Safety and Health Act preempted California's proven safety program and mandated California's adherence to certain inflexible rules and regulations established by the federal act and by the Federal Department of Labor; and

WHEREAS, Compliance with the Federal Occupational Safety and Health Act eliminated California's cooperative safety program in which California labor, business, and state activities jointly established and maintained California's exemplary industrial safety records, and, instead, established an adversary procedure whereby California's safety inspectors have now become police officers enforcing the law; and

WHEREAS, Making reasonable changes in the California Occupational Safety and Health Act of 1973 is extremely difficult because of the Federal Occupational Safety and Health Act mandate which threatens a federal takeover of California's safety programs for any deviation from the federal program; and

WHEREAS, The operation of the California Occupational Safety and Health Act of 1973 within such federal mandates has resulted in expenditures almost four times as large as under California's previous safety program; and

WHEREAS, Compliance with mandated provisions of the federal act have buried California's safety inspectors under an avalanche of paper work requiring three times more man-hours for report writing and the completion of various forms and written documents than under California's previous safety program; and

WHEREAS, The California Department of Finance's January 1976 "Review of the Implementation of the California Occupational Safety and Health Act" identifies several research studies which provide evidence indicating that a majority of all industrial accidents are not inspection preventable and that an estimated 60—75% of all industrial accidents are thus uneffected by Cal-OSHA's compliance program; and

WHEREAS, The number of California occupational safety and health standards is constantly increasing, until there are at present, an estimated 7,000 standards which are supposed to be enforced and with which the employer community is required to be familiar; and

WHEREAS, Cal-OSHA has been in effect since 1973, and

according to the aforementioned Department of Finance review, any reduction in the overall rate of occupational injuries and illnesses cannot be demonstrated and the potential for reducing injury rates is very limited; and

WHEREAS, According to the aforementioned Department of Finance review, a meaningful relationship between violations of Cal-OSHA standards and the occurrence of injuries has not been found; and

WHEREAS, The complexities of the California Occupational Safety and Health Act and its multitude of standards make it difficult for many compliance safety engineers to recognize violations outside their specialized field of expertise; and

WHEREAS, California's Occupational Safety and Health Standards Board's General Industry Safety Orders many times conflict with orders generated by the Federal Occupational Safety and Health Act for specialized industries, producing inconsistencies, contradictions, and confusion; and

WHEREAS, An example which demonstrates the cumbersome absurdity of both the federal and the California acts' standards is the General Industry Safety Orders' 49 pages of requirements for ladders which apply generally to their manufacture, and which in many cases are not related to user safety, and, therefore, have little practical relevance to a safety inspection program; and

WHEREAS, It is unlikely that more than three or four of the 49 pages in the General Industry Safety Orders on ladders are enforceable by California's Division of Industrial Safety; and

WHEREAS, According to the most recent statistics available from the Division of Industrial Safety inspectors spend less than 20 percent of their time actually conducting onsite inspections; and

WHEREAS, The California Legislature's chief fiscal officer, the Legislative Analyst, has reported that California Occupational Safety and Health Act compliance officers perform an average of only two inspections per week, at which rate each work place in California can expect an inspection on the average of once every 23 years; and

WHEREAS, This rate of inspections under the California Occupational Safety and Health Act produces less than one-fifth of the inspections conducted under California's previous safety programs; and

WHEREAS, The California Occupational Safety and Health Act produces thousands of citations, less than 2 percent of which are for serious violations; and

WHEREAS, Compliance with the Federal Occupational Safety and Health Act has resulted in a system whereby the California Occupational Safety and Health Act directs almost all of its efforts at eliminating minor nonserious hazards rather than the elimination of serious injury-producing hazards to California's workers; and

WHEREAS, Cal-OSHA inspectors in enforcing Cal-OSHA standards, issue more than 98 percent of their citations for nonserious violations which bear little or no relationship to conditions which

actually cause injuries; and

WHEREAS, California's Legislative Analyst has reported that only 6 percent of the investigations conducted in 1975 pertaining to referrals to the State Department of Health resulted in the issuance of citations for serious violations; and

WHEREAS, California's Legislative Analyst has reported that up to 40 percent of all employee complaints result in inspections which are frivolous, thus diverting the resources of the Division of Industrial Safety into nonproductive areas; and

WHEREAS, California would be better served to maintain its own safety program with its own rules and regulations, with an ability to respond adequately to needed changes without the constant spectre of a federal takeover for not being in conformity with federal mandates; and

WHEREAS, As a result of adverse federal and state court decisions in at least five other states, there has risen serious doubt about the constitutionality of the federally-mandated inspection program contained in the California Occupational Safety and Health Act; and

WHEREAS, The California Division of Industrial Safety and the California Legislature, in cooperation with the industrial community and California's labor organizations, in a unified effort, are better able to produce a greater measure of safety for California workers than when forced to become adversaries in an inflexible system, as required by compliance with the Federal Occupational Safety and Health Act; and

WHEREAS, The Federal Occupational Safety and Health Act, and the California Occupational Safety and Health Act's compliance with its rigid mandates, has not improved California's safety record, but to the contrary has reduced the likelihood that inspections will take place, has increased costs, has forced inspectors to do paperwork rather than make inspections, and confused industry with a multitude of conflicting and contradictory standards; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to amend the Federal Occupational Safety and Health Act or insert supplementary language into the appropriate budget act allowing the California Occupational Safety and Health program the administrative flexibility necessary to efficiently resolve numerous problems of implementation such as those described in this joint resolution and to more effectively deal with the root causes of occupational injuries and illnesses to produce a genuine reduction in employee accident, injury, illness and death rates; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

517 023574

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 75—Relative to State Highway Route 33.

[Filed with Secretary of State May 17, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 33 located between State Highway Routes 5 and 152 is hereby officially designated and named Santa Nella Boulevard; and be it further

Resolved, That the Division of Highways of the Department of Transportation is hereby requested to erect and maintain appropriate signs on that portion of Route 33 showing the official designation and directional signs to Santa Nella Boulevard at the junctions of Route 33 with Routes 5 and 152; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 35

Assembly Joint Resolution No. 25—Relative to vehicle identification numbering systems.

[Filed with Secretary of State May 17, 1978.]

WHEREAS, There is a definite need for improved vehicle identification number systems to identify vehicles, in areas such as registration, titling, inspection, vehicle theft, accident investigation, safety defect recall, and to reduce errors in vehicle data collection and processing; and

WHEREAS, The National Highway Traffic Safety Administration has issued notice of proposed rulemaking concerning standardization of motor vehicle identification number systems; and

WHEREAS, The Vehicle Equipment Safety Commission developed and adopted Standard 15, a vehicle identification numbering system which specifies a 16 digit, fixed length, fixed format VIN which contains a vehicle descriptor section particularly identifying a vehicle's make, car line, series, body, and engine type; and

WHEREAS, The California Department of Motor Vehicles and the Department of the California Highway Patrol worked with the Vehicle Equipment Safety Commission in developing Standard 15 and consider the VESC Standard 15 characteristics as essential for meeting the minimum requirements of motor vehicle administrators and law enforcement personnel to properly identify vehicles; and

WHEREAS, The State of California intends to establish a vehicle identification numbering system by 1980 if the National Highway

Traffic Safety Administration does not adopt a national standard; and

WHEREAS, The Legislature desires to aid in the protection of property by increasing security through identification; and

WHEREAS, An adequate uniform identification system would improve service to, and protection of, the public; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectively urges the National Highway Traffic Safety Administration to establish a vehicle identification numbering system by adoption of the existing Vehicle Equipment Safety Commission Standard 15 which specifies requirements for the design of a vehicle identification number system; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the National Highway Traffic Safety Administration, the Vehicle Equipment Safety Commission, the California Department of Motor Vehicles, the Department of the California Highway Patrol, and each foreign and domestic manufacturer of passenger vehicles, trucks, motorcycles, and trailers manufactured for sale in California.

RESOLUTION CHAPTER 36

Assembly Joint Resolution No. 69—Relative to federal dam safety programs.

[Filed with Secretary of State May 17, 1978.]

WHEREAS, Recent incidents of dam failures resulting in loss of life, injuries, and property damage point up a national need for improved dam safety programs at the federal and state levels of government; and

WHEREAS, Previously authorized programs have not been adequate in scope or sufficiently funded to be nationally effective; and

WHEREAS, Several agencies of the federal government directly design, build, and operate dams or, through their licensing, permitting, or other regulatory procedures, cause the design, construction, and operation of dams in the United States; and

WHEREAS, More effective efforts are needed on the national and state levels to assure improved public safety from the hazards presented by dams; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby expresses its concern about the safety of dams, and respectfully memorializes the President and the Congress of the United States to include the following major principles in their deliberations on any

federal legislation regarding dam safety:

(a) That such legislation stress the critical role of independent dam safety reviews for publicly owned and privately owned dams, since the major problems of dam safety are probably going to be from the far more numerous private dams, which are often unregulated and uninspected;

(b) That any legislation include (1) a requirement for annual safety evaluations and reports, and (2) five-year major inspections and reports after construction and during the continuing operations phases of the dam's life, so it continues to function without a loss of safety;

(c) That such legislation provide for the establishment of appropriate organizations at the federal and state levels to provide dam safety inspection services, and allow individual states which so desire to contract with the appropriate federal agency established for this purpose;

(d) That such legislation provide for the use of people on review panels or boards who are knowledgeable and experienced in the seismic design of dams, where dam safety programs are implemented in seismically active areas of the United States;

(e) That such legislation should require that whenever federal agencies build or license dams in states where the design standards, construction practices, and inspection procedures are more stringent than their own or require the recognition of particular hazards, the state standards and processes shall govern; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Presidential Science Advisor, the Secretary of the Interior, the Commissioner of the Bureau of Reclamation, the Chairman of the Council on Environmental Quality, the Secretary of the Army, the Chief of Engineers, the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 37

Assembly Joint Resolution No. 70—Relative to Native Americans.

[Filed with Secretary of State May 17, 1978.]

WHEREAS, Native Americans are the original people of this continent; and

WHEREAS, Native Americans have faced years of injustice and inequitable treatment in their native land; and

WHEREAS, Native Americans have made significant contributions to American society and have served their nation well in time of war and peace; and

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WHEREAS, Native Americans have a separate and unique cultural heritage and identity; and

WHEREAS, It is essential that Native Americans maintain the right to preserve their separate cultural identity; and

WHEREAS, Legislation is now pending in Congress which would adversely limit and restrict tribal jurisdiction over issues relating to water, fishing, and hunting rights in Indian land, and would ultimately terminate all vestiges of Native American culture, heritage and the very existence of that people; and

WHEREAS, Such measures are in direct contradiction to the recommendations presented by the American Indian Policy Review Commission which was created by Congress; and

WHEREAS, Such congressionally created Commission strongly supports tribal sovereignty and recommends congressional action to clarify the sovereign status of Indian tribes by assisting in the removal of legal and administrative impediments to the exercise of self-government by such tribes and to strengthen the tribes' ability to exercise sovereign powers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the President and Congress of the United States to take whatever actions are necessary to ensure the defeat of all proposed legislation or federal resolutions currently pending in the United States Congress which, in any manner, threaten or abrogate the treaty rights of Native Americans, or which affect Native American self-government and tribal sovereignty, or which go counter to the recommendations of the American Indian Policy Review Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 38

Assembly Joint Resolution No. 74—Relative to the issuance of a postage stamp commemorating the landing by Sir Francis Drake in California in 1579.

[Filed with Secretary of State May 17, 1978.]

WHEREAS, The summer of 1979 will be the quadricentennial of the landing by Sir Francis Drake in the Golden Hinde on what is now the California coast during his historic circumnavigation of the world; and

WHEREAS, In the summer of 1579 Captain Francis Drake

discovered and named part of Western America, Nova Albion; and

WHEREAS, The Native Americans did with great ceremony and dignity present a crown and scepter and the title of Hioh to Captain Francis Drake; and

WHEREAS, Captain Francis Drake did then declare these people to be subjects of Her Majesty Queen Elizabeth of England, the first non-Europeans to be so honored; and

WHEREAS, Nova Albion was the founding overseas dominion in the British Commonwealth of Nations; and

WHEREAS, Nova Albion was the first Elizabethan discovery claim of what was to become the United States and directly contributed to the English interest in the new world which manifested itself with Sir Humphrey Gilbert's voyage to Newfoundland in 1583 and Sir Walter Raleigh's colony in Virginia in 1585; and

WHEREAS, New England was given that name by Captain John Smith because Sir Francis Drake had named the opposite shore Nova Albion in honor of the oldest known name for Britain; and

WHEREAS, Francis Drake was the first British navigator to circle the world and perform this "famous voyage" in fulfillment of the Elizabethan doctrine that the "air and the sea is common to all nations"; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the United States Postal Service to authorize the issuance of a commemorative stamp in honor of the landing by Sir Francis Drake in the Golden Hinde on the California Coast in the summer of 1579; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Postmaster General of the United States Postal Service.

RESOLUTION CHAPTER 39

Senate Concurrent Resolution No. 58—Relative to Interstate 580.

[Filed with Secretary of State May 19, 1978]

WHEREAS, The operation of Interstate 580 from one mile east of Crow Canyon Road interchange to Route 238 is governed by an agreement entered into by the Federal Highway Administration, the Business and Transportation Agency, the Department of Transportation, and the Sierra Club; and

WHEREAS, The terms of the agreement require, with respect to

the four traffic lanes constructed, or to be constructed, for traffic in each direction, that (1) the inner lane in each direction (the lane adjacent to the median) be reserved for high occupancy vehicles except from 6 p.m. Friday to 6 a.m. Monday, (2) the adjacent lane to the inner lane to be used as a shoulder to separate the high occupancy traffic on the inner lane from traffic on the two outside lanes, and (3) the two outside lanes to be opened to all traffic; and

WHEREAS, The studies of the department indicate that all eight lanes are necessary to meet the transportation needs of the public; and

WHEREAS, The operation of Interstate 580 pursuant to the terms of the agreement is not the optimal use of the highway; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Business and Transportation Agency and the Department of Transportation are hereby directed to enter into negotiations with the Sierra Club and the Federal Highway Administration to revise the existing agreement governing the operation of Interstate 580 so that all eight traffic lanes thereof could be opened to all traffic; and be it further

Resolved, That the department is hereby directed to commence preparation of the necessary environmental impact report, concurrently with the attempt to enter such negotiations, for the operation of Interstate 580 as an eight-lane highway with all lanes opened to all traffic; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business and Transportation Agency and the Director of Transportation.

RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 79—Relative to the Joint Rules.

[Filed with Secretary of State May 23, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Joint Rule 61 of the Temporary Joint Rules of the Senate and Assembly for the 1977–78 Regular Session is amended to read:

Deadlines

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between the third Friday in May and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from

the fiscal committees of their respective houses a report concerning bills introduced in and requiring further actions by that house, unless they were passed by a policy committee prior to the third Friday in May. Such a report may be received from a fiscal committee on or before June 20, however, if after the third Friday in May the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) Between the first Friday in June and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(3) Between June 20 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in their respective houses.

(4) Between the last Friday in June and September 16, no bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted in the other house.

(5) Between the third Monday in August and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills requiring further action that were introduced in the other house, unless they were passed by a policy committee prior to the third Monday in August. Such a report may be received from a fiscal committee on or before September 1, however, if after the third Monday in August the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(6) Between the fourth Monday in August and September 16, no committee other than fiscal committees shall meet for the purpose of hearing any bill.

(7) Between September 1, and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee requiring further action by their respective houses.

(b) Even-numbered year:

(1) After January 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in their respective houses during the odd-numbered year which require further consideration by the fiscal committee. Such a report may be received from a policy committee on or before January 23, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) After January 23, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee concerning bills introduced in their respective houses during the odd-numbered year, requiring further action in that house.

(3) After the first Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses requiring further consideration by the fiscal committee of that house. Such a report may be received from a policy committee on or before the

second Friday in June, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(4) After the fourth Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses and requiring further action in that house.

(5) After the Friday preceding the next to last Friday in June, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in and requiring further action by that house.

(6) After the next to last Friday in June, neither house shall pass bills introduced in that house.

(7) After August 10, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in the other house requiring further consideration by the fiscal committees. Such a report may be received from a policy committee on or before August 20, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(8) After August 20, the Secretary of the Senate and the Chief Clerk shall not receive a committee report concerning bills which require further action in their respective houses.

(9) After August 20, no committee shall meet for the purpose of hearing any bill.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk may subsequently receive a report at any time within two legislative days after the deadline recommending the bill for passage or for rereferral together with the amendments.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines contained in paragraph (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from such joint recess.

(e) The deadlines imposed by this rule shall not apply to the Rules Committees of the respective houses.

(f) The above deadlines shall not apply in instances where a bill is referred to committee under Joint Rule 26.5.

(g) There shall be no committee meetings held during the week preceding the summer recess of the odd-numbered year, and none during the week which includes the next-to-last Friday in June of the even-numbered year.

(h) This rule may be suspended as to any particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

(i) Except as provided in subparagraphs (a) (6) and (b) (9), and subdivision (g), the deadlines imposed by this rule shall not apply to

those bills which go into immediate effect pursuant to Article IV, Section 8(c).

RESOLUTION CHAPTER 41

Assembly Joint Resolution No. 17—Relative to federal income taxes.

[Filed with Secretary of State May 23, 1978.]

WHEREAS, The cost of living as reflected by the Wholesale Price Index has significantly increased each year; and

WHEREAS, The federal income tax brackets have not been adjusted accordingly; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to index the federal income tax brackets, the personal exemptions, and the standard deduction to the growth in the cost of living; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 86—Relative to senior citizen housing construction.

[Filed with Secretary of State May 23, 1978.]

WHEREAS, There exists an unsatisfied demand for acceptable low and moderate income senior-citizen housing in California, and such demand will continue to increase as the proportion of senior citizens in our total population increases; and

WHEREAS, All practical and effective means of providing for the housing needs of California's senior citizens should be explored; and

WHEREAS, It is the policy of the Legislature to encourage private sector activities that meet the specific needs of the public with a minimum of governmental bureaucratic involvement; and

WHEREAS, There exists on Hancock Street in San Diego a unique privately developed and financed senior citizens' apartment complex known as "The Orchard" which was completed in cooperation with local government with minimal bureaucratic

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involvement and meets the housing needs of low and moderate income senior citizens, the concept of which should be studied as another alternative to providing senior-citizen housing; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Housing and Community Development, in cooperation with the Department of Aging, shall prepare a summary study of the development concept of The Orchard senior-citizens' housing, which shall include, but not be limited to, a description of the cooperative effort between local public agencies and the private sector developer, the land lease arrangements, the permit process adopted, the extent of governmental subsidies, and the senior citizen population to be served; and be it further

Resolved, That copies of such summary study with a letter of transmittal, indicating that it is the intent of the Legislature to provide the summary study as resource material to encourage the consideration of the concept cited in the study as well as other private and public alternatives aimed at satisfying the housing needs of California's senior citizen population, shall be transmitted no later than six months from the chaptered date of this resolution by the Department of Housing and Community Development at state expense, to each house of the Legislature and to appropriate officials of each county and city responsible for making housing decisions within their jurisdictions, and that copies be made available by the department to other interested parties at a cost sufficient to defray the state's expenses; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the Department of Housing and Community Development and the Director of the Department of Aging.

RESOLUTION CHAPTER 43

Assembly Concurrent Resolution No. 104—Relative to the Dallas C. Bache Interchange.

[Filed with Secretary of State May 23, 1978]

WHEREAS, Construction will commence during the summer of 1978 on an interchange on State Highway Route 99 at Shanks Road and on an undercrossing on Route 99 at El Capitan Way; and

WHEREAS, The interchange and undercrossing are elements of the project known as the Delhi Freeway; and

WHEREAS, The project will cost five million five hundred thousand dollars ($5,500,000) and will extend from 0.4 miles south of El Capitan Way to 0.2 miles north of the Turlock Irrigation District

Lateral No. 6; and

WHEREAS, Mr. Dallas C. Bache, a dedicated civic leader, has given freely of his time and talents for many years and has been an outspoken advocate for the construction of the Delhi Freeway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the interchange to be constructed on State Highway Route 99 at Shanks Road is hereby designated the Dallas C. Bache Interchange; and be it further

Resolved, That the Department of Transportation erect appropriate signs and markers, consistent with signing requirements for the state highway system, showing this official designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 65—Relative to the Santa Monica Mountains National Park and the Santa Monica Mountains Urban Park.

[Filed with Secretary of State May 26, 1978.]

WHEREAS, The Santa Monica Mountains of California and areas adjacent to them are distinct and valuable natural resources of this nation; and

WHEREAS, Due to their close proximity to a large urban area, many people could use and enjoy the natural, scenic, historic, and archaeological values of the Santa Monica Mountains and the adjacent seashore area; and

WHEREAS, The Santa Monica Mountains offer the last undeveloped open-space area in the greater Los Angeles region; and

WHEREAS, The mountains provide essential air shed enhancement and protection for the greater Los Angeles area; and

WHEREAS, This area, in addition to possessing great natural and historical values, can also be compatibly utilized as a recreation area serving both the central urban area of Los Angeles and the Southern California region, as well as the many, many nonresidents who visit that region each year; and

WHEREAS, Urban sprawl is rapidly destroying this resource, particularly for those areas closest to downtown Los Angeles, and delay in adopting protective legislation may permit additional critical losses in the resource; and

WHEREAS, Legislation has been introduced which would provide for the establishment of the Santa Monica Mountains National Park and the Santa Monica Mountains Urban Park in such areas of the

State of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to consult with the California Legislature, the California Department of Parks and Recreation, the local governments of Los Angeles County and Ventura County, the law enforcement and fire prevention agencies of Los Angeles County and Ventura County, the Santa Monica Mountains Comprehensive Planning Commission, the residents of Los Angeles County and Ventura County, the property owners in the Santa Monica Mountains, and all other interested parties in drafting and enacting legislation compatible with the interests of the state and such residents to acquire the Santa Monica Mountains and adjacent areas for a national park or an urban park, or both; and be it further

Resolved, That the Congress appropriate funds to assist the State of California to acquire property in the Santa Monica Mountains and adjacent areas for the development of an urban park; and be it further

Resolved, That fair and equitable provisions for the transfer and sale of real property be included in the legislation, as well as provisions for a transition zone around the national park or urban park, or both, if necessary; and be it further

Resolved, That the Legislature of the State of California urges the Congress and the President to establish a national park or an urban park, or both, as soon as possible; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 45

Senate Joint Resolution No. 45—Relative to the Island of Cyprus.

[Filed with Secretary of State May 26, 1978]

WHEREAS, The United States and Greece have been steadfast friends and allies since the widespread support and encouragement given by Americans to the Greek Revolution against the Ottoman Empire in 1821; and

WHEREAS, This history of friendship was strengthened through our active alliance in two world wars in which Greece was a fighting ally and friend of the United States; and

WHEREAS, Greece is now an indispensable ally and beacon of democratic government in Eastern Europe; and

WHEREAS, Greece and the United States are essential to each other for their mutual security and for the security of the Free World in the Mediterranean area, and their continued amicable relationship is essential for the safeguarding of the American Sixth Fleet in the Mediterranean; and

WHEREAS, By illegal use of United States supplied military weapons in violation of the United States Foreign Military Assistance and Sales Acts, and in violation of the Charter of the North Atlantic Treaty Organization and in repeated and flagrant violation of four United Nations resolutions, Turkey has attacked, seized, and continues to occupy the independent island nation of Cyprus; and

WHEREAS, The humanitarian crisis on Cyprus, involving two hundred thousand Cypriot refugees, grows increasingly more desperate as the prospects for a negotiated settlement dim; and

WHEREAS, President Carter has declared that United States foreign policy shall be committed to the protection of human rights; and

WHEREAS, Turkey continues its long standing policy of suppression of its ethnic minorities, depriving them of their right to freely practice their religions and to maintain their languages, distinctive cultures, and basic human needs, particularly those of the Armenian survivors of the Massacre of 1915, the Kurds, and the Greeks; now, therefore, be it

Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and the Congress of the United States to exert their best efforts to effectuate a removal of all foreign troops from Cyprus, to restore the two hundred thousand suffering Cypriot refugees to their homes and businesses, to restore to the people of Cyprus the right of self-determination, and to exert their best efforts towards a just resolution of the Cyprus conflict; and be it further

Resolved, That the Members urge the President and the Congress of the United States to give generous support to the Cypriot refugees, and to continue to support Greece by annual aid authorizations and to continue the embargo on arms to Turkey until such time as Turkey acts to withdraw its troops from Cyprus; and be it further

Resolved, That the Members urge the President and the Congress of the United States to review the current policies of Turkey regarding its treatment of the ethnic and religious minorities residing in Turkey, in the light of President Carter's repeated expressions of concern for human rights; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the presiding officer of each House of Congress of the United States, and to each Senator and Representative from California in the Congress of the United States.

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RESOLUTION CHAPTER 46

Senate Joint Resolution No. 33—Relative to federal reclamation laws.

[Filed with Secretary of State May 30, 1978.]

WHEREAS, The Department of the Interior has been ordered by a federal district court to issue written rules and regulations on policies and procedures to be used by the Bureau of Reclamation in administering the acreage limitation and other provisions of federal reclamation law; and

WHEREAS, The Department of the Interior has issued proposed rules and regulations; and

WHEREAS, Such proposed regulations constitute a substantial change in enforcement procedures which have been practiced by the Bureau of Reclamation; and

WHEREAS, The Department of Interior was subsequently ordered by a federal district court to prepare an environmental impact statement prior to implementing such rules and regulations; and

WHEREAS, The Department of Interior has determined not to appeal such court order and will thus prepare an environmental impact statement, which will effectively establish a moratorium on implementation of such rules and regulations; and

WHEREAS, Farming practices and agricultural conditions presently prevailing in the American West have changed substantially since the practices and conditions prevalent at the time of the enactment of the Reclamation Law of 1902; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California concurs that an environmental impact statement should be prepared on the proposed rules and regulations pursuant to the National Environmental Policy Act; and be it further

Resolved, That the Legislature of the State of California respectfully requests the Department of the Interior to continue its effective moratorium on the implementation of proposed rules and regulations; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Reclamation Act of 1902 to ensure that the federal reclamation law is meaningful and realistic in relation to present day agricultural conditions and to the original intent of reclamation law to provide opportunities for family farmers; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of

Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 58—Relative to energy requirements of appliances.

[Filed with Secretary of State May 31, 1978.]

WHEREAS, The manufacture, use, and disposal of appliances consume significant amounts of energy and material resources; and

WHEREAS, It is the intent of the Legislature to assist in the conservation of energy so as to prevent the waste of energy and material resources; and

WHEREAS, The State Energy Resources Conservation and Development Commission is charged with the responsibility for encouraging energy conservation, including the adoption of appliance standards for increasing the energy efficiency of appliances; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Energy Resources Conservation and Development Commission is urged to study methods of minimizing the life cycle energy requirements of appliances as a further means of reducing energy consumption in the manufacture and use of such appliances if and only if the Legislative Analyst makes a finding that the study will not duplicate any other investigation or study currently being conducted or having been completed by any state or federal agency. The study, if conducted, shall include the following:

a. Findings concerning major aspects of energy consumption of appliances, including, but not limited to, the energy costs associated with acquiring raw materials, manufacture, transportation, use and disposal of such appliances.

b. Findings concerning the effects of maximizing the useful lifetime of major appliances, including, but not limited to, the impact on employment, industry, material resources, and energy requirements; and be it further

Resolved, That the State Energy Resources Conservation and Development Commission is urged to work with the Department of Consumer Affairs, the State Solid Waste Management Board, and any other such agency as it finds appropriate for the purpose of undertaking such a study and submitting findings and recommendations to the Legislature by July 1, 1979; and be it further

Resolved, This resolution and the research which it outlines shall be for the evaluation of the staff of the commission and the public and the research may be used as a basis for development of future

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standards, but it shall in no way be used to forestall current development of standards based on direct energy consumption by appliances; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Chairman of the State Energy Resources Conservation and Development Commission and to the Legislative Analyst.

RESOLUTION CHAPTER 48

Assembly Concurrent Resolution No. 45—Relative to the joint rules.

[Filed with Secretary of State June 7, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 37.7 is added to the Temporary Joint Rules of the Senate and Assembly for the 1977–78 Regular Session, to read:

37.7. (a) Any Member of the Senate may request the Senate Rules Committee, and any Member of the Assembly may request the Speaker of the Assembly, to direct a standing committee or the Office of Research of their respective house to study any proposed or existing regulation or group of related regulations. Upon receipt of such a request the Senate Rules Committee or Speaker shall, after review, determine whether such a study shall be made. In reviewing the request, the Senate Rules Committee or Speaker shall determine:

(1) The cost of making such a study.

(2) The potential public benefit to be derived from such a study.

(3) The scope of the study.

(b) The study may consider, among other relevant issues, whether the proposed or existing regulation:

(1) Exceeds the agency's statutory authority;

(2) Fails to conform to the legislative intent of the enabling statute;

(3) Contradicts or duplicates other regulations adopted by federal, state, or local agencies;

(4) Involves an overdelegation of regulatory authority to a particular state agency;

(5) Unfairly burdens particular elements of the public; or

(6) Imposes social or economic costs which outweigh its intended benefits to the public.

(7) Imposes unreasonable penalties for violation.

The respective reviewing unit shall in a timely manner transmit its concerns, if any, to the Senate Committee on Rules or the Speaker of the Assembly, and the promulgating agency.

In the event that a state agency takes a regulatory action which the reviewing unit finds unacceptable, the unit shall file a report for

publication in the daily journal of its respective house indicating the specific reasons why the regulatory action should not have been taken. The report may include a recommendation that the Legislature adopt a concurrent resolution requesting the state agency reconsider its action or that the Legislature enact a statute to restrict the regulatory powers of the state agency taking the action.

RESOLUTION CHAPTER 49

Assembly Concurrent Resolution No. 89—Relative to the California Law Revision Commission.

[Filed with Secretary of State June 9, 1978.]

WHEREAS, Section 10335 of the Government Code provides that the California Law Revision Commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress; and

WHEREAS, The commission, in its annual report covering its activities for 1977, lists the following topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

Topics Under Active Consideration

(1) Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised;

(2) Whether the Evidence Code should be revised;

(3) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(4) Whether the parol evidence rule should be revised;

(5) Whether the law relating to eminent domain should be revised;

(6) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including but not limited to liability for damages resulting from flood control projects) and whether the law relating

to the liability of private persons under similar circumstances should be revised;

Other Topics Authorized for Study

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(2) Whether the law relating to class actions should be revised;

(3) Whether the law relating to offers of compromise should be revised;

(4) Whether the law relating to discovery in civil cases should be revised;

(5) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(6) Whether a Marketable Title Act should be enacted in California and whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use should be revised;

Topics Continued on Calendar for Further Study

(1) Whether the law relating to arbitration should be revised;

(2) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(3) Whether the law relating to suit by and against partnerships and other unincorporated associations should be revised and whether the law relating to the liability of such associations and their members should be revised;

(4) Whether the law relating to partition should be revised;

(5) Whether the law relating to modification of contracts should be revised;

(6) Whether the law relating to sovereign or governmental immunity in California should be revised;

(7) Whether the law relating to nonprofit corporations should be revised;

(8) Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised;

(9) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

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RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 71—Relative to boxing.

[Filed with Secretary of State June 14, 1978.]

WHEREAS, Youth boxing contests are increasing in popularity throughout California, and these contests subject the child participants to a potentially dangerous situation; and

WHEREAS, Chapter 973 of the Statutes of 1976 requires that a physician be in attendance during such contests, however, the act does not provide an enforcement mechanism; and

WHEREAS, Most of these contests are held pursuant to Sections 18653 and 18654 of the Business and Professions Code which exempts free amateur boxing contests conducted by public agencies and nonprofit organizations from the jurisdiction of the State Athletic Commission; and

WHEREAS, The state is therefore currently unable to ascertain the extent of compliance with the provisions of Chapter 973 and unable to ensure the health and safety of the children participating in the matches; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Athletic Commission is requested to prepare a report which shall include a survey of a representative sample of the youth boxing contests held pursuant to Sections 18653 and 18654 of the Business and Professions Code; and be it further

Resolved, That the survey shall include information regarding the extent of compliance with the provisions of Chapter 973 regarding the requirement that a physician be in attendance at every contest held pursuant to such sections of law; and be it further

Resolved, That the report shall also include any recommended legislative reforms to ensure the health and safety of the children participating in youth boxing contests; and be it further

Resolved, That the State Athletic Commission report its findings and recommendations to the Assembly six months from the date this resolution is adopted; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Executive Officer of the State Athletic Commission.

RESOLUTION CHAPTER 51

Assembly Concurrent Resolution No. 148—Relative to personnel management within the Agricultural Labor Relations Board.

[Filed with Secretary of State June 14, 1978.]

WHEREAS, For many years the legitimate rights of agricultural workers to organize and to refrain from organizing were not protected by either federal or state laws; and

WHEREAS, In response to this inequity the people of the state, through the Legislature, adopted the Agricultural Labor Relations Act of 1975 and created the Agricultural Labor Relations Board and its general counsel to ensure that such rights were protected and to achieve peace and justice in the conduct of agricultural labor relations; and

WHEREAS, In order to effectuate the purposes of the act both the board and the general counsel have recognized that there must be clear lines of authority with respect to personnel management within the Agricultural Labor Relations Board; and

WHEREAS, The board, acting to improve the management of the agency's operations, delegated to the general counsel, effective March 15, 1978, responsibility for personnel decisions with respect to employees of the agency's regional offices; provided, however, that personnel decisions by the general counsel concerning the selection, appointment, retention, transfer, promotion, discipline or discharge of regional directors or officers in charge of subregional offices shall be subject to the approval of the board; and

WHEREAS, Such a delegation by the board is consistent with National Labor Relations Board policies and, in addition, furthers the purposes for which the Agricultural Labor Relations Act was adopted; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intent of the Legislature that the general counsel of the Agricultural Labor Relations Board have primary responsibility for the operation of the agency's regional offices including such personnel authority as is necessary to ensure the efficient operation of these offices; and be it further

Resolved, That the Legislature supports and concurs with the delegation of personnel authority contained in the board's statement of delegation dated March 15, 1978.

RESOLUTION CHAPTER 52

Senate Joint Resolution No. 36—Relative to farmland inventory.

[Filed with Secretary of State June 20, 1978.]

WHEREAS, Several bills are pending consideration by the Legislature of this state which would require the identification of the state's prime agricultural lands, in order that such lands might be afforded adequate protection from non-agricultural uses; and

WHEREAS, The Inventory of Important Farmlands which is being proposed by the United States Department of Agriculture will

provide a comprehensive county by county mapping of such lands at a date later than it might be useful in the implementation of pending legislation; and

WHEREAS, This inventory is currently underway in several counties and will be completed for all counties at no cost to the state; and

WHEREAS, An adjustment of the scheduled completion date of the inventory could make these valuable data available in sufficient time to aid in the implementation of the pending legislation in this state; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Soil Conservation Service of the United States Department of Agriculture, with full cooperation of the agencies of this state, to expedite the inventorying of farmlands in this state and to complete its Important Farmland Inventory not later than September 30, 1979; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 53

Senate Concurrent Resolution No. 76—Relative to the Governmental Eras Documentation Project.

[Filed with Secretary of State June 28, 1978.]

WHEREAS, The Governmental Eras Documentation Project has completed an oral history of the Earl Warren Era (1943–1951) and is now in the process of completing a similar oral history of the Goodwin J. Knight - Edmund G. Brown, Sr., Era (1952–1966); and

WHEREAS, The Legislature recognizes that oral histories provide unique and valuable additions to the incomplete and often misleading written records which are available; and

WHEREAS, The Legislature recognizes the efforts of the Governmental Eras Documentation Project as having created most useful and important resources for the people of California, documenting in a unique, vivid, colorful and readily understandable fashion California's legislative, administrative and political history; and

WHEREAS, The Legislature feels these efforts should be continued in order to document subsequent historical periods; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

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thereof concurring, That the Legislature hereby urges the Governor to include an appropriation in the budget for fiscal year 1979–80 to the California Heritage Preservation Commission for the purpose of contracting with the Regents of the University of California for continuation of the Governmental Eras Documentation Project by the Regional Oral History Office of the Bancroft Library at the University of California at Berkeley; and be it further

Resolved, That the Secretary of State transmit copies of this resolution to the California Heritage Preservation Commission, the Regents of the University of California, and the Governor.

RESOLUTION CHAPTER 54

Assembly Constitutional Amendment No. 71—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 9 to Article XIX thereof, relating to surplus state property.

[Filed with Secretary of State June 29, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 9 to Article XIX thereof, to read:

SEC. 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the state to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.

RESOLUTION CHAPTER 55

Senate Joint Resolution No. 39—Relative to federal reclamation laws.

[Filed with Secretary of State June 30, 1978.]

WHEREAS, The Imperial Valley of California is recognized throughout the world as one of the greatest achievements in the history of reclamation, a place where the barren desert has been transformed into one of the richest and most productive farming areas of the world; and

WHEREAS, Private enterprise was responsible for bringing water from the Colorado River to the Imperial Valley, with the first delivery of water commencing in 1901 through the Alamo Canal, a facility built by the California Development Company, which ran for most of its distance through Mexico; and

WHEREAS, In 1928, Congress approved the Boulder Canyon Project authorizing construction of Hoover Dam and the All-American Canal, which replaced the Alamo Canal as the source of water for the Imperial Valley in 1942; and

WHEREAS, The Boulder Canyon Project Act prohibits the making of any charge for the delivery of water to the Imperial Valley, and the federal government is being repaid for the cost of the All-American Canal by the Imperial Irrigation District in interest-free annual installments; and

WHEREAS, No provision of the Boulder Canyon Project Act provides that the 160 acre limitation provision of federal reclamation law is to be applicable to private lands served by the All-American Canal, and no provision relating to such limitation is contained in the contract between the federal government and the Imperial Irrigation District for delivery of water through the canal; and

WHEREAS, In order to remove any possible doubt as to the applicability of the 160 acre limitation provision to the Imperial Valley, Secretary of the Interior Ray Lyman Wilbur, in a letter dated February 23, 1933, expressly ruled that the acreage limitation provisions of the Reclamation Act of 1902 would not apply to the Imperial Valley, stating "these lands, already having a vested right, are entitled to have such vested right recognized without acreage limitation"; and

WHEREAS, Although Secretary Wilbur's ruling was reaffirmed in subsequent departmental reviews in 1937, 1941, 1946, 1950, and 1952, the solicitor of the Department of the Interior ruled, in December 1964, that acreage limitation provisions should apply to privately owned lands in Imperial Valley; and

WHEREAS, Litigation was commenced in 1967, and has been continuing since that time, on the question of the applicability of the acreage limitation provisions to the Imperial Valley; and

WHEREAS, Farmers in the Imperial Valley agreed to the

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construction of the All-American Canal to replace the existing Alamo Canal with the understanding that acreage limitation provisions would not be applicable and for decades thereafter relied on the express assurances of the Department of the Interior that such provisions were not applicable; and

WHEREAS, The vast majority of farms in the valley are family owned and family run, and it is agreed by growers and economists that a 160-acre farm is not a viable economic unit in the valley; and

WHEREAS, The application of acreage limitation provisions to the Imperial Valley at this time would not only be grossly unfair to the farmers of the Imperial Valley who have struggled over the years under the most difficult conditions to make farming in the valley more productive and efficient and have relied on the assurances of the federal government, but would have a disastrous effect on the entire economy of the valley, as well as an adverse effect on all Americans who have benefitted from the progressive agriculture of the valley; and

WHEREAS, The Department of the Interior has proposed the issuance of rules and regulations establishing policies and procedures to be used by the Bureau of Reclamation in administering the acreage limitation and other provisions of federal reclamation law; and

WHEREAS, Such regulations, among other things, establish radically new criteria and procedures to be used by the Bureau of Reclamation in approving the sale of excess lands, vest new powers in the bureau to continue the supervision of excess lands following their sale, and require the purchaser of excess lands to live on or in the neighborhood of such lands; and

WHEREAS, Such regulations would require the sale of all excess land through a government-supervised lottery, which would be expensive, if not impossible to enforce, and would at the very least constitute an unwarranted and unnecessary intrusion of government into private affairs; and

WHEREAS, The divestment of large blocks of land, particularly in California, at lower market values would have a devastating effect on the tax base of state and local government, thus seriously impairing the delivery of basic government services; and

WHEREAS, Such regulations would permit a father and a son to own land jointly up to the allotted acreage limits, but would prohibit such ownership by two brothers or a nephew or cousin, an absurd and unjust result; and

WHEREAS, Such proposed regulations have already had a devastating effect on the agricultural economy, in that banks have reduced lending and farmers are afraid and uncertain about new investment; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to expressly exclude the application of the

Reclamation Act of 1902 to the Imperial Valley; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 56

Senate Constitutional Amendment No. 65—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 28 to Article IV thereof, relating to the State Capitol.

[Filed with Secretary of State June 30, 1978.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 28 to Article IV thereof, to read:

SEC. 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either (1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or (2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators' chairs and desks in the Senate and Assembly Chambers.

(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.

(c) This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture.

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RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 165—Relative to commending Senator Alfred H. Song.

[Filed with Secretary of State July 3, 1978.]

WHEREAS, Upon the occasion of his retirement from the California Legislature, after an illustrious career spanning 16 years, the Honorable Alfred H. Song is deserving of special honor and commendations; and

WHEREAS, Senator Song was born in Hawaii, is a veteran of World War II and a graduate of the University of Southern California, where he earned Bachelor of Science, Juris Doctor, and Master of Laws degrees, and he has also distinguished himself as a recipient of the honorary degrees of Doctor of Laws and Doctor of Philosophy; and

WHEREAS, Senator Song's exemplary career as a representative of the people began over two decades ago as councilman for the City of Monterey Park, and has continued throughout tenures of four years with the California Assembly, and 12 years with the California Senate; and

WHEREAS, Considered to be the finest committee chairman in the Legislature by a consensus of legislators and members of the Capitol Press Corps, Senator Song has provided strong guidance as Chairman of the Senate Committee on Judiciary, Chairman of the Senate Subcommittee on Administration of Justice, and Chairman of the Senate Committee on Business and Professions; and

WHEREAS, With an excellent and unparalleled legislative record in California history, Senator Song has authored over 200 bills which have become law, including such landmark legislation as California's first Evidence Code, the first consumer warranty guaranty law in the nation, the first credit card protection law in the nation, and a family physician training act; and

WHEREAS, Recognized as a leader in court reform legislation and in the California judicial system, Senator Song has been dedicated to justice and equality for all, and has earned the reputation as a fair, firm, and courageous individual; and

WHEREAS, In addition to his active role as a state legislator, Senator Song has been recognized by his peers as having a brilliant legal mind, and has served the legal profession through his affiliation as a member of the Judicial Council of California, the National Conference of Commissioners on Uniform State Laws, the California Commission on Criminal Justice, the American Board of Trial Advocates, the California State Bar Association, the Los Angeles County Bar Association, and the American Bar Association; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members express their sincerest

commendations and appreciation to their colleague and good friend, the Honorable Alfred H. Song, for his outstanding record of dedicated service to his constituents and to all of the people of the State of California, and convey to him their best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Senator Alfred H. Song.

RESOLUTION CHAPTER 58

Senate Joint Resolution No. 43—Relative to multiple employer trusts.

[Filed with Secretary of State July 3, 1978.]

WHEREAS, As many as 1,500,000 Californians may have health care service plan coverage under contracts issued and self-funded by employee welfare benefit plans as defined in and subject to the Employee Retirement Income Security Act of 1974 (ERISA); and

WHEREAS, The Federal courts have held that the State of California's Knox-Keene Health Care Service Plan Act of 1975 is totally preempted by ERISA as to the self-funded Employee Welfare Benefit Plans which would otherwise be subject to that act; and

WHEREAS, ERISA is silent (except for generally applicable requirements regarding holding assets in trust, filing with the U.S. Department of Labor, and observing fiduciary duties) with respect to financial soundness of self-funded health plans; and

WHEREAS, ERISA is silent (except for disclosure requirements) with respect to the manner in which potential enrollees are enrolled in self-funded health plans; and

WHEREAS, ERISA is completely silent with respect to quality of care or any other aspect of the delivery of health care services to plan enrollees, and is silent with respect to the liability of an enrollee to pay a contracting provider sums owed by, but not paid by, the plan; and

WHEREAS, ERISA is completely silent with respect to the benefits to be provided by health plan contracts and the fairness of such contracts, so that benefits can be illusory, the handicapped can be discriminated against, newly-born or newly-adopted children need not be covered, complications of pregnancy can be excluded, discrimination against spouses can be practiced, and totally disabled employees whose employment is terminated need not receive "grace periods" coverage; and

WHEREAS, These concerns have been addressed in California by the Knox-Keene Health Care Service Plan Act, but California residents who rely on self-funded employee welfare benefit plans for their health coverage are deprived of the benefits and protections of

that act because of total preemption under Section 514 of ERISA, notwithstanding ERISA's substantial silence in the area of state regulation of health care service plans; and

WHEREAS, As many as 130,000 Californians may have disability insurance coverage under contracts issued by multiple employer trusts purporting to be employee benefit plans as defined in ERISA and subject to the exclusive jurisdiction of the U. S. Department of Labor; and

WHEREAS, Several purported ERISA multiple employer trusts have become insolvent within the past 18 months leaving thousands of California residents without disability insurance coverage and with millions of dollars in unpaid claims; and

WHEREAS, These multiple employer trusts claim to be exempt from the financial solvency, market contract and other regulations of the California Insurance Code by virtue of total preemption under Section 514 of ERISA; and

WHEREAS. The multiple employer trusts which have to date been challenged in court have all uniformly been found to be unlicensed insurance companies not subject to the provisions of ERISA; and

WHEREAS, ERISA provides no standards for determining administratively which multiple employer trusts are subject to its provisions and no standards have been set by the U. S. Department of Labor; and

WHEREAS, The State of California and other states have expended great sums of money to resolve judicially issues relating to preemption and multiple employers trusts; and

WHEREAS, Court actions can only affect the named individual multiple employer trust and have no universal application; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact an amendment to Section 514 of ERISA to provide for the preemption of state laws which relate to employee welfare benefit plans only insofar as such laws conflict with ERISA, and either to enact an amendment to ERISA to clarify the definition of multiple employer trusts which are employee benefit plans subject to the provisions of ERISA or to direct to the U.S. Department of Labor to immediately review filings made with it by multiple employer trusts operating in the State of California to determine which, if any, are employee benefit plans as defined in and subject to the provisions of ERISA and immediately promulgate regulations implementing standards for determining which multiple employer trusts are subject to ERISA and which are not; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United

States.

RESOLUTION CHAPTER 59

Senate Concurrent Resolution No. 92—Relative to making additional funds available to the Joint Legislative Budget Committee.

[Filed with Secretary of State July 5, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to it, the sum of three million one hundred seventy-five thousand dollars ($3,175,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule 37, provided that ninety-six thousand dollars ($96,000) of the amount which has been allocated for employee cost-of-living salary adjustments shall be returned to the Contingent Funds of the Assembly and Senate if other state employees are not granted similar adjustments.

RESOLUTION CHAPTER 60

Assembly Concurrent Resolution No. 88—Relative to the intersection of State Highway Route 41 and Mt. Whitney Avenue.

[Filed with Secretary of State July 6, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to install flashing traffic warning signals at the intersection of State Highway Route 41 and Mt. Whitney Avenue in Riverdale; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 61

Assembly Joint Resolution No. 89—Relating to cotton production.

[Filed with Secretary of State July 6, 1978.]

WHEREAS, The San Joaquin Valley is one of the world's most important cotton producing areas, with approximately one million acres of land ideally suited to cotton production; and

WHEREAS, Twenty percent of the world's cotton supply is produced in the valley with an annual value in excess of five hundred million dollars; and

WHEREAS, California's one-variety cotton district law, adopted in 1925, requires San Joaquin Valley cotton-growers to plant only Acala variety cotton which insures that a large amount of uniformly high-quality cotton is available to buyers; and

WHEREAS, Acala variety cotton is a high yielding, strong fiber, long staple cotton of consistently high quality that brings a premium price for growers; and

WHEREAS, The United States Department of Agriculture's cotton research station at Shafter, California, conducts a cotton breeding program intended to continually improve the Acala variety cotton; and

WHEREAS, The United States Department of Agriculture will, on October 1, 1978, discontinue a portion of the Shafter research station funding in the amount of $130,000 and will redirect an additional $113,000 from the Acala variety breeding program to a basic breeding program emphasizing host plant resistance; and

WHEREAS, This federal action jeopardizes California's one-variety cotton law which is dependent upon continuing varietal research at the Shafter station; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Secretary of Agriculture to maintain funding for the United States Department of Agriculture Shafter Research Station at its present level; and be it further

Resolved, That funding for the Acala variety breeding program be reestablished and maintained at its present level; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

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RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 91—Relative to foreign steel imports.

[Filed with Secretary of State July 6, 1978.]

WHEREAS, The California Legislature fully recognizes the importance of international trade, and resulting benefits accruing to the state from tax revenues, job creation and general economic stimulation through bilateral foreign trade; and

WHEREAS, Both foreign and domestic producers of goods and services are vital to the state's continued stability and general economic development, and these producers should be encouraged to ensure viable economic progress, and fair and equitable competition; and

WHEREAS, The California Legislature has received communications from employees, employers, and labor leaders of the California steel producing and steel fabricated products industry requesting presidential and congressional action to control the alarming increase of low priced foreign steel imports into the western marketing area; and

WHEREAS, Steel imported into the western states in 1977 accounted for a record 38 percent (3,311,000 net tons) of the market, as compared to 18 percent nationwide; and

WHEREAS, There is strong evidence that foreign steel producers are "dumping" their product into the U.S. steel market with the support, subsidy and encouragement of their governments toward the end of sustaining their employment levels; and

WHEREAS, The impact of this increase in foreign steel imports has caused the permanent closing of steel producing and fabricating facilities in California with resulting permanent loss of jobs; and

WHEREAS, Two thousand four hundred members of the United Steelworkers of America Union at Kaiser Steel's Fontana California steel mill have collected more than $5,600,000 in federal cash awards after the U.S. Department of Labor found that "increased imports . . . contributed importantly to the unemployment of a significant number of workers" at the Fontana mill; and

WHEREAS, The loss of long-term job security and resulting payroll, and loss in generation of taxes to support local and state government, could continue unabated without strong affirmative intercession at the federal government level; and

WHEREAS, There are serious doubts that the "trigger price" mechanism set by federal authorities as a means of imports control, truly serves the needs of western steel producers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to

pursue vigorously the prompt and full enforcement of the Trade Act of 1974 and especially the antidumping laws; and be it further

Resolved, That the recommendation of the Solomon Task Force be promptly and thoroughly reevaluated as to its potential to inadvertently, but disastrously, fail to cope with the foreign steel dumping problem in the western states; and be it further

Resolved, That legislation now pending in Congress be enacted promptly to enable states, under a uniform federal procedure, to establish a system of preferential bidding upon all state let contracts requiring the purchase of steel which preference would allow for the purchase of domestic manufactured and produced steel, and fabricated steel products; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, Chairmen of the House and Senate "Steel Caucus," Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 63

Assembly Concurrent Resolution No. 98—Relative to agricultural burning.

[Filed with Secretary of State July 10, 1978.]

WHEREAS, The State Air Resources Board is responsible for the reasonable regulation of agricultural and related burning; and

WHEREAS, The state board is required to take into consideration, when adopting rules and regulations in regard to agricultural and related burning, various factors such as the economic and technical impact of such rules and regulations on the population and economy of an area; and

WHEREAS, The state board is required to adopt rules and regulations to provide for the issuance of permits for agricultural and related burning; and

WHEREAS, The constituents of the Counties of Monterey, San Benito, San Luis Obispo, and Santa Barbara have indicated to their Assembly representative that the rules and regulations affecting their ability to perform agricultural and related burning in these counties are too restrictive; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Air Resources Board hold a minimum of two public hearings located at two different locations within the Counties of Monterey, San Benito, San Luis Obispo, or Santa Barbara for the purpose of reviewing its rules and regulations as they apply to agricultural and related burnings in this area; and be it further

Resolved, That, on or before September 1, 1978, the State Air Resources Board report to the Legislature its findings and decisions as they apply to modifying the rules and regulations for agricultural and related burnings to prevent undue damage to such area's population and economy; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Air Resources Board.

RESOLUTION CHAPTER 64

Assembly Joint Resolution No. 61—Relative to the funding of a national earthquake hazards reduction program.

[Filed with Secretary of State July 10, 1978.]

WHEREAS, An area of over 4,500 square miles has risen five to 10 inches since 1961 along a section of the San Andreas fault where major earthquakes have historically occurred and are likely to occur in the future; and

WHEREAS, There is uncertainty about the specific location and mechanism of possible earthquakes in such section of the San Andreas fault and in other areas of California which similarly face potential earthquakes; and

WHEREAS, The full implications of the uplift and other manifestations of earthquakes are unclear, but serve as a forceful reminder of the constant threat of damaging earthquakes in California; and

WHEREAS, In California, there are several tens of thousands of hazardous buildings which constitute a significant danger to life; the strengthening or abatement of which are beyond the financial resources of local and state government; and

WHEREAS, The California Seismic Safety Commission recently held hearings in Palmdale on the uplift and other manifestations of earthquakes and advised the Legislature of their implications for public safety; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California finds that while the significance of the uplift and other manifestations of earthquakes is not fully understood, they should be considered as forceful reminders of the possible threat to public safety and welfare; and be it further

Resolved, That the Legislature of the State of California hereby respectfully memorializes the Congress of the United States to ensure that adequate funds are allocated pursuant to the implementation plan for the National Earthquake Hazards Reduction Act to meet the highest priority needs for earthquake hazard mitigation in California, including the following:

(1) Providing local government with financial and technical assistance in the evaluation of non-earthquake-resistant buildings.

(2) Providing financial and technical assistance to evaluate the vulnerability of areas subject to earthquake damage and to improve disaster plans, training, public education, and other emergency preparedness measures.

(3) Assisting in the organization and support of intergovernmental reconstruction planning programs for areas subject to major earthquakes for the purpose of accelerating recovery, minimizing social and economic disruption, and avoiding the creation of future hazards.

(4) Accelerating the publication of regional and local maps showing faults and other geologic hazards, expected ground motion, and probable damage patterns.

(5) Assisting in the establishment by the appropriate scientific organizations of a reliable and timely system for the prediction of damaging earthquakes in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 65

Assembly Concurrent Resolution No. 85—Relative to the California Law Revision Commission.

[Filed with Secretary of State August 14, 1978.]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Legislature which are thereafter approved for study by concurrent resolution of the Legislature and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission has included in the calendar contained in its report to the Legislature three new topics not presently authorized for study by the commission which the commission recommends be authorized for study by the commission; and

WHEREAS, Those topics are in need of study; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for study by the California Law Revision Commission the following new topics:

(1) Whether the law relating to quiet title actions should be

revised;

(2) Whether the law relating to community property should be revised;

(3) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(4) Whether Section 1464 of the Civil Code should be repealed or revised;

(5) Whether the law relating to the abandonment or vacation of public streets and highways by cities, counties, and the state should be revised; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 103—Relative to state hospitals.

[Filed with Secretary of State August 14, 1978]

WHEREAS, Eleven state hospitals for the developmentally disabled and the mentally disordered have lost or been threatened with the loss of state licensure and federal certification, because of deficiencies in staffing and quality of care; and

WHEREAS, Such deficiencies have existed for many years under administrations of both parties and have not been promptly remedied because of administrative neglect and an unwillingness to commit adequate resources; and

WHEREAS, The Licensing Division of the State Department of Health did not begin to properly inspect such facilities until November of 1976, and even after licensing inspections turned up serious deficiencies, action was not taken to remedy the deficiencies until late in 1977; and

WHEREAS, A 24.6 million dollar proposal has been developed to correct deficiencies in the state hospital system and this amount was established by means of negotiations between licensing and health treatment administrators of the State Department of Health; and

WHEREAS, Many of the standards applied in this licensing process are not now discernible and were sufficiently vague so as to require extensive negotiations in order to determine the amount and level of staff and equipment needed to comply with the law; and

WHEREAS, Such a negotiation process is unacceptable as an ongoing method to license and certify state hospitals and allows little or no opportunity for the Legislature to determine the basis upon which budget allocations for the hospitals should be made; and

WHEREAS, It is likely that even if funding increases were made available to the hospitals, licensing and quality of care problems will

not be resolved without major changes in recruitment policy, organization of the hospitals, affiliation with medical schools and other factors; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring:

(1) That the State Department of Health Services, in conjunction with the State Departments of Mental Health and Developmental Services, proceed forthwith to establish standards for the hospitals which allow for objective evaluation, and the enforcement of which will not necessitate future extensive negotiating; that such standards take into account the level of care required by the patients in state hospitals and that they be established for all classes of personnel working at such hospitals. In establishing these standards the department shall give consideration to the applicability of the 1973 state hospital staffing standards or standards derived from a similar methodology.

(2) That the State Personnel Board, in conjunction with the State Department of Health Services and the State Departments of Mental Health and Developmental Services, undertake a study to determine the wage levels and other perquisites and conditions of employment needed to attract additional qualified physicians and other health personnel to work at the state hospitals.

(3) That the State Departments of Mental Health and Developmental Services initiate discussions with the University of California and the California State University and Colleges and other institutions to establish major affiliation status with schools of medicine, psychiatry, nursing, and other relevant programs; and that the departments outline the costs of the barriers to their being established.

(4) That appropriate legislative policy and fiscal committees continue closely monitoring the operation of the state hospitals.

(5) That the State Department of Health issue a preliminary report to the Legislature by July 1, 1978, and the State Department of Health Services issue a final report by January 1, 1979, on item (1) of this resolution.

(6) That the State Personnel Board issue a preliminary report to the Legislature by July 1, 1978, and a final report by January 1, 1979, on item (2) of this resolution;

(7) That the State Departments of Mental Health and Developmental Services issue a preliminary report to the Legislature by July 1, 1978, and a final report by January 1, 1979, on item (3) of this resolution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Department of Health, the State Personnel Board, the Regents of the University of California, the Trustees of the California State University and Colleges, and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 127—Relative to state employee merit awards.

[Filed with Secretary of State August 14, 1978]

WHEREAS, Section 13926 of the Government Code provides that awards may be made to state employees in excess of one thousand dollars ($1,000) when such awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to John G. Reavis, Department of Benefit Payments, for a suggestion that results in annual savings of fifteen thousand seven hundred forty-six dollars ($15,746), by suggesting that certain legal notices relative to proposed regulations be printed in an abbreviated format in selected newspapers, as permitted by law; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Eva M. McClintock and Bruce Luscutoff, Department of Benefit Payments, who with the material assistance of their immediate supervisor, Sandra Hobson, suggested a procedure which results in one-time savings of ninety-two thousand three hundred eight dollars ($92,308), by suggesting that Form W-2, needed for State Disability Insurance refund processing, be obtained directly from Franchise Tax Board instead of by written requests to each of the claimants; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Alice M. Dinneen, State Compensation Insurance Fund, for a suggestion that has resulted in annual savings of ten thousand eight hundred forty-four dollars ($10,844), by suggesting that employers completing reports for split-rate payroll periods be instructed to report separate payrolls, eliminating a result which required manual handling; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Linda J. Wilcox, Franchise Tax Board, for a suggestion that results in annual savings of thirty thousand two hundred forty-seven dollars ($30,247), by suggesting the request of annual computer printouts from companies employing able-bodied seamen to determine their liability for personal income taxes in lieu of a cumbersome and expensive procedure previously in force; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Dorothy J. Anderson, Department of Health, for a suggestion that results in annual savings of fourteen thousand eight hundred eighty-nine dollars ($14,889), by recommending that the purchase of medical evidence be considered a commodity transaction rather than one of service so as to be a nonreportable payment for tax purposes; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to William N. Harris, California Highway Patrol, for a

suggestion that results in increased revenue of seventeen thousand six hundred ninety-eight dollars ($17,698), by proposing a procedure to notify the Department of Motor Vehicles of the operation of school buses in a manner which illegally avoids payment of appropriate fees; and

WHEREAS, A supervisory participation award is recommended for Edith Burke, Department of Motor Vehicles, for materially assisting in the development of a suggestion made by Elizabeth Hitchner, adopted by her department and for which the award and annual savings were acknowledged in a prior Assembly concurrent resolution; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Louise R. Lewis, Department of Motor Vehicles, for a suggestion that results in annual savings of fifteen thousand one hundred twenty-two dollars ($15,122), by recommending discontinuance of a procedure for notifying drivers whose licenses had been suspended of reinstatement requirements before the reinstatement date; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Pat Takeda, Department of Motor Vehicles, for a suggestion that results in annual savings of thirty thousand two hundred eighty-three dollars ($30,283), by proposing one multicopy form, instead of three, to notify drivers of the suspension of their driving privilege for failure to report an accident, or failure to establish and maintain proof of financial responsibility; and

WHEREAS, An award of one thousand dollars ($1,000), divided equally, has already been made to Katherine E. Finwick and Verna M. Resch, Department of Motor Vehicles, for a suggestion that results in annual savings of ten thousand seven hundred sixty-two dollars ($10,762), by recommending elimination or reduction in the sorting, arranging and logging of information related to driver financial responsibility; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Ralph P. Kuzmic, Department of Transportation, for a suggestion that results in annual savings of ninety thousand eight hundred thirty-one dollars ($90,831), by recommending the elimination of a portion of certain concrete median barriers found to be unnecessary to traffic safety; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Harold L. Burgener, California Polytechnic State University, San Luis Obispo, for a suggestion that results in annual savings of thirteen thousand two hundred eighty-four dollars ($13,284), by developing and proposing a program to convert the Controller's monthly payroll tape to punched card input for the allotment expenditure ledgers of state universities; and

WHEREAS, The suggestions of these employees have resulted in one-time and recurring savings and increased revenue amounting to three hundred forty-two thousand fourteen dollars ($342,014); and

WHEREAS, As a result of these savings and increased revenue it

is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following additional awards, which have been approved by the State Board of Control, are hereby authorized to the employees named:

John G. Reavis, five hundred seventy-five dollars ($575).

Eva M. McClintock, one thousand eight hundred ten dollars ($1,810).

Bruce Luscutoff, one thousand eight hundred ten dollars ($1,810).

Sandra Hobson, one thousand three hundred eighty-five dollars ($1,385).

Alice M. Dinneen, eighty-five dollars ($85).

Linda J. Wilcox, two thousand twenty-five dollars ($2,025).

Dorothy J. Anderson, four hundred eighty-five dollars ($485).

William N. Harris, seven hundred seventy dollars ($770).

Edith Burke, two thousand five hundred dollars ($2,500).

Louise R. Lewis, five hundred ten dollars ($510).

Pat Takeda, two thousand thirty dollars ($2,030).

Katherine E. Finwick, forty dollars ($40).

Verna M. Resch, forty dollars ($40).

Ralph P. Kuzmic, eight thousand eighty-five dollars ($8,085).

Harold L. Burgener, three hundred thirty dollars ($330); and be it further

Resolved, That the Merit Award Board implement the following criteria in making cash awards after the effective date of this resolution:

(1) (a) Management employees are not eligible for award consideration and that the delineation of supervisory or nonsupervisory categories shall be replaced by a management or nonmanagement distinction.

(b) Management employees of the state civil service system are those defined in subdivision (e) of Section 3513 of the Government Code and include any employee having significant responsibilities for the formulation or the administration of agency or departmental policies and programs or the administration of an agency or department.

(c) Management employees of the California State University and Colleges system are defined as any employees having significant responsibilities for formulating or administering policies and programs. No employee or group of employees shall be deemed to be managerial employees solely because the employee or group of employees participate in decisions with respect to courses, curriculum, personnel and other matters of educational policy. A department chair or head of a similar academic unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of such duties.

(2) Cash awards for tangible savings shall continue to be based on

10 percent of annual ongoing savings. Awards shall be made only for savings of two hundred fifty dollars ($250) or more. Minimum awards shall be the greater of 10 percent of savings or one hundred dollars ($100) and maximum cash awards shall be no greater than ten thousand dollars ($10,000). The Merit Award Board may periodically review the ten thousand dollars ($10,000) maximum limit to reflect cost-of-living increases and shall report their recommended adjustments to the Legislature.

Cash awards for intangible savings shall range from twenty-five dollars ($25) to ninety-five dollars ($95), pursuant to the rules established by the Merit Award Board and the State Administrative Manual.

(3) The Merit Award Board shall submit an annual report to the Legislative Analyst and the legislative fiscal committees with data on the number and nature of claims and awards where there is an unresolved controversy concerning relation of the award to the job; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the State Board of Control and to the State Controller.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 139—Relative to congratulating and commending John J. Miller on his retirement.

[Filed with Secretary of State August 14, 1978]

WHEREAS, The Honorable John J. Miller, after serving as a Member of the California Legislature for twelve years, has ended his outstanding legislative career on behalf of the people of the State of California and his constituents in the 13th Assembly District; and

WHEREAS, Assemblyman Miller was born in Savannah, Georgia, received his Bachelor of Arts degree from Talladega College in Alabama, and his legal education from Howard University in Washington, D.C., and the University of California's Boalt School of Law in Berkeley; and

WHEREAS, Assemblyman Miller, who practices law in San Francisco and Oakland, was first elected to the Legislature in 1966, representing Alameda, Emeryville, a portion of Berkeley and north, east, and west Oakland, and was reelected by very substantial margins in subsequent elections; and

WHEREAS, After his first term, he was voted one of the three top freshmen Assemblymen out of a class of thirty-four, and in April of 1970, he was elected Assembly Democratic Leader, while also serving as Vice Chairman of the Criminal Procedure Committee and Chairman of the Subcommittee on Welfare Reorganization; and

WHEREAS, Assemblyman Miller is Chairman of the Assembly Committee on Judiciary and is also a member of the Judicial Council of California; the Bay Conservation and Development Commission; the Assembly Finance, Insurance, and Commerce Committee; and the Labor, Employment, and Consumer Affairs Committee; and

WHEREAS, In recognition of his extraordinary achievements in the California Legislature, he was named "Public Official of the Year" by the Los Angeles Trial Lawyers Association in 1975, and "Legislator of the Year" by the California Trial Lawyers Association in 1976, and he also received the "Outstanding Service Award" from the Alameda-Contra Costa Trial Lawyers Association in 1976; and

WHEREAS, Assemblyman Miller has served as a member and president of the Berkeley Board of Education, member of the Berkeley Housing Advisory and Appeals Board, the Berkeley N.A.A.C.P. Board, the Berkeley Board of Library Trustees, the Bishop's Committee of the Episcopal Church of the Good Shepherd, the University of California's Men's Faculty Club, Alpha Phi Alpha Fraternity, and the American Academy of Political and Social Services; and

WHEREAS, Assemblyman Miller has been appointed by Governor Edmund G. Brown Jr. to serve as a justice of the Court of Appeal for the First District in San Francisco; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their deepest appreciation to their former colleague and good friend, the Honorable John J. Miller, for his twelve years of dedicated and highly effective service to his constituents and to all of the people of the State of California, and extend to him their very best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Assemblyman John J. Miller.

RESOLUTION CHAPTER 69

Assembly Joint Resolution No. 94—Relative to victims of crimes.

[Filed with Secretary of State August 14, 1978.]

WHEREAS, Crime is on the increase nationally with one violent crime being committed every thirty-two seconds since 1976; and

WHEREAS, Violent crime victims have long been the forgotten victims in the history of our society; and

WHEREAS, The Legislature of the State of California has attempted to redress this wrong by offering assistance to those persons who have been victimized by perpetrators of violent crimes; and

WHEREAS, To allow victims to shoulder the costs of their injuries

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imparts an undue, unjust and undeserved burden on such persons; and

WHEREAS, Society has recognized its moral and philosophical obligation to assist victims of crime; and

WHEREAS, To this end, 24 states have enacted victim compensation programs, with similar legislation pending in five other states; and

WHEREAS, Congress is considering two pieces of legislation regarding compensation for victims; and

WHEREAS, Many victims incur more than twenty-five thousand dollars ($25,000) in expenses resulting from violent crimes; and

WHEREAS, The State of California and other states are considering setting maximum awards in excess of the twenty-five thousand dollar ($25,000) limit; and

WHEREAS, The costs of maintaining compensation programs are so prohibitive as to prevent many states from establishing such programs; and

WHEREAS, Federal funding will allow state programs currently in existence to continue and provide the impetus for other states to enact similar programs; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes Congress to adopt legislation which would provide a 50 percent reimbursement to the states for their costs and allow victims to receive a maximum award of fifty thousand dollars ($50,000); and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 56—Relative to the David Familian Chapel.

[Filed with Secretary of State August 15, 1978]

WHEREAS, The David Familian Chapel, which was dedicated on November 7, 1949, was the first synagogue building built as such in the San Fernando Valley; and

WHEREAS, The David Familian Chapel is within the Adat Ari El Synagogue, which is the oldest and largest synagogue in the San Fernando Valley; and

WHEREAS, The David Familian Chapel, with its stained glass windows which have received wide attention among lovers of

synagogue art and architecture, is a warm and intimate place of worship; and

WHEREAS, Thousands of Jewish families in the San Fernando Valley and in Los Angeles have commemorated the sacred occasions of life in the David Familian Chapel and the first Bat Mitzvah for a girl on a Saturday morning was conducted in this chapel in 1950, an important step in the extension of equal rights in the Jewish religion to women; and

WHEREAS, Many important experiments in adult Jewish education were initiated at this chapel, which have been emulated in many other congregations; and

WHEREAS, The significance of the David Familian Chapel to the Jewish people in the San Fernando Valley and surrounding community is deserving of the highest recognition; and

WHEREAS, The David Familian Chapel has great historical value to the people of California as the first synagogue building to serve the communities of the San Fernando Valley; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Parks and Recreation and the State Historical Resources Commission are requested to recognize and designate the David Familian Chapel, the first synagogue building of the San Fernando Valley, as a historical landmark.

RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 73—Relative to the San Diego-Coronado Toll Bridge.

[Filed with Secretary of State August 15, 1978.]

WHEREAS, The Heart Association of San Diego plans to sponsor a marathon race for the purpose of raising funds to further the purposes of the association; and

WHEREAS, In order to stimulate interest in this event, the association desires to include the San Diego-Coronado Toll Bridge as part of the course over which competitors will run; and

WHEREAS, It appears to be in the best interests of the people of the Cities of San Diego and Coronado, and of the State of California as a whole, to encourage activities such as those carried on by the association; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is hereby requested to authorize the closure of the San Diego-Coronado Toll Bridge for the period of time necessary to permit its use as a part of the course for a marathon run sponsored by the Heart Association of San Diego, if the department is requested

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to do so by the Cities of San Diego and Coronado in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

RESOLUTION CHAPTER 72

Assembly Constitutional Amendment No. 47—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 1 of Article XXXIV thereof, relating to housing.

[Filed with Secretary of State August 16, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 1 of Article XXXIV thereof, to read:

SECTION 1. Before a state public body develops, constructs, or acquires a low rent housing project, it shall provide public notice of the proposed development, construction, or acquisition. Thereafter, the proposed development, construction, or acquisition shall be subject to referendum in the manner prescribed herein.

If a low rent housing project is proposed to be located in an unincorporated portion of the county, the county board of supervisors shall specify in the public notice the area of the county it determines will be substantially affected by the proposed low rent housing project, including any substantially affected area of a city or cities within the county.

A referendum shall be held if a petition signed by qualified electors of the city and county, city, or the area of the county specified by the county board of supervisors in which the project will be located, numbering not less than 10 percent of the total votes cast within such city and county, city, or area at the last gubernatorial election for all candidates for Governor, is submitted to the clerk of the legislative body of the city and county, city or county within 60 days of the date of the public notice required by this section. If a majority of the qualified electors of the city and county, city, or area of the county specified by the county board of supervisors voting on the referendum disapprove of the proposed development, construction, or acquisition of the low rent housing project, the state public body shall not proceed with such project. If a referendum is not held pursuant to this section, or if held, the proposed development,

construction, or acquisition is not disapproved, the state public body may proceed with the development, construction, or acquisition of the low rent housing project, and the development, construction, or acquisition of such project shall not be subject to further referendum.

For the purposes of this article the term "low rent housing project" shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise.

For the purposes of this article only there shall be excluded from the term "low rent housing project" any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

For the purposes of this article only "persons of low income" shall mean persons of families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

For the purposes of this article the term "state public body" shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

For the purposes of this article the term "Federal Government" shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.

RESOLUTION CHAPTER 73

Assembly Joint Resolution No. 92—Relative to agricultural commodities.

[Filed with Secretary of State August 16, 1978.]

WHEREAS, California's unique environment and its enterprising farmers have combined for a total agricultural production in excess of nine billion dollars; and

WHEREAS, California produces over 200 agricultural commodities and is unique among the states in the diversity of its agricultural production; and

WHEREAS, Exports of California's agricultural products generate over 80,000 jobs and provide a favorable balance of trade surplus; and

WHEREAS, Agriculture is California's number one industry, and

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there is a worldwide demand for the agricultural products produced in California; and

WHEREAS, Despite the demand for these commodities, some nations unfairly penalize California agricultural exports through illegal quotas, discriminatory duties and other nontariff barriers; and

WHEREAS, The removal of these trade barriers would permit the expansion of California's agricultural exports resulting in expanded job opportunities and in improvement in the nation's balance of payments; and

WHEREAS, Negotiators from the Office of the Special Trade Representative, the International Trade Commission, and the Department of Agriculture are presently involved in negotiations aimed at reducing these illegal trade barriers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes both the Congress and the President of the United States to vigorously negotiate the reduction of unfair barriers to free trade which currently exist and, thereby, expand the international commerce in agricultural products, including the agricultural commodities produced in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 74

Assembly Joint Resolution No. 95—Relative to Vietnamese refugees in the United States.

[Filed with Secretary of State August 16, 1978.]

WHEREAS, Since the fall of South Vietnam to Communist forces three years ago, the United States has welcomed the arrival of over 100,000 Vietnamese refugees; and

WHEREAS, Over 80 percent of these refugees are seeking a better life in California and are gradually joining the mainstream of American life; and

WHEREAS, These refugees have come to this country in order that they may enjoy the freedoms and human rights which constitute the basic principles for our system of government; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to promote respect for the rights of Vietnamese refugees in this country

by granting the status of permanent resident alien to those refugees who request such status in order that they may have the opportunity to enjoy fully the American way of life; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 75

Senate Concurrent Resolution No. 61—Relative to Governor's Conference on Nutrition.

[Filed with Secretary of State August 17, 1978.]

WHEREAS, There is a recognized relationship between nutrition and a person's physical, mental, and economic well-being which directly affects the quality of life for all citizens; and

WHEREAS, There has been a change in eating habits of citizens of all age levels, reflecting the current life style, which may result in harmful effects on health; and

WHEREAS, Nutrition is now recognized by professionals as the key to preventive health care, which may significantly reduce the disability and medical costs to the individual, the state, and the taxpayer; and

WHEREAS, There is a need to develop a statewide plan to fully utilize nutrition research and technology to benefit all citizens; and

WHEREAS, There is a need for a coordinated program of nutrition education in combination with a state nutrition policy; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Governor call a statewide Governor's Conference on Nutrition to be held in the winter of 1978–79, the primary purpose of which shall be the establishment of state nutrition policies, including a program of nutrition education from which to develop a workable coordinated plan for action that will result in the improved nutritional status of California citizens; and be it further

Resolved, That the Governor appoint a well qualified professional in nutrition to serve as Conference Director, and that the Governor also establish a task force to assist the Conference Director in the planning and implementation of the conference, including the establishment of procedures for conducting such conference; and be it further

Resolved, That the task force be comprised of representatives of health care providers, nutritionists, educators, consumers,

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agriculture, industry, appropriate agencies and departments, the general public, and other appropriate groups or individuals; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 76

Senate Constitutional Amendment No. 67—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State August 18, 1978.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 2 of Article XIII A to read:

Section 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

RESOLUTION CHAPTER 77

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 2 of Article I thereof, relating to freedom of press.

[Filed with Secretary of State August 21, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 2 of Article I thereof, to read:

SEC. 2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

(b) A publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt by a judicial, legislative, or administrative body, or any other body having the power to issue subpoenas, for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

As used in this subdivision, "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated.

RESOLUTION CHAPTER 78

Assembly Constitutional Amendment No. 53—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 17 of Article XIII thereof, repealing Sections 6 and 27 of Article IV thereof, adding Section 6 to Article IV thereof, and adding Article XXI thereto, relating to reapportionment.

[Filed with Secretary of State August 21, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That Section 6 of Article IV is repealed.

Second—That Section 6 is added to Article IV, to read:

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly Districts. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of the Assembly.

Third—That Section 27 of Article IV is repealed.

Fourth—That Section 17 of Article XIII is amended to read:

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The state shall be divided into four Board of Equalization districts with the voters of each district electing one member.

Fifth—That Article XXI is added, to read:

ARTICLE XXI

REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively

commencing at the northern boundary of the state and ending at the southern boundary.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section.

RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 168—Relative to memorializing the Honorable William M. Ketchum.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, It was with the most profound sorrow and deep sense of loss that word was received of the passing of the Honorable William M. Ketchum, who excellently served the people of this state as a member of the California Assembly from 1966 to 1972, and as a member of the United States Congress from 1972 until his passing on June 24, 1978; and

WHEREAS, Congressman Ketchum, a native Californian, attended schools here and served in the United States Army, 77th Infantry Division, Pacific Theater, during World War II; and in the 441st Counterintelligence Corps Detachment in Japan for three years during the Korean Conflict; and

WHEREAS, In 1966, he was elected to the California State Assembly, where he served three terms, and in 1972, to the Congress, where he also served three terms; and

WHEREAS, During his tenure as a Congressman, William Ketchum was a member of the prestigious House Ways and Means Committee and its Subcommittee on Welfare Reform, Public Assistance and Unemployment Compensation, and Social Security; and

WHEREAS, Regarded as a colorful and forceful orator, Congressman Ketchum had an outstanding legislative record in the areas of welfare reform and Social Security financing, and played a key role in resolving a wide range of tax issues that came before the Ways and Means Committee; and

WHEREAS, The State of California was indeed fortunate to have been served by an individual of the caliber of Congressman William M. Ketchum, whose dynamic and effective leadership will be greatly missed; and

WHEREAS, Congressman Ketchum is survived by his wife, Lola, and his two children, Robert and Kathy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their deepest sympathy at the passing of their former colleague and good friend,

the Honorable William M. Ketchum, and by this resolution, memorialize his exemplary record of personal and professional achievements on behalf of the people of California, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Mrs. Lola Ketchum, and to her children, Robert and Kathy.

RESOLUTION CHAPTER 80

Senate Concurrent Resolution No. 70—Relative to the Old Globe Theater.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, The Old Globe Theater in San Diego was destroyed by fire during the early morning hours of March 8, 1978, and

WHEREAS, The Old Globe Theater was established during the 1935–36 Pacific International Exhibition in San Diego, and

WHEREAS, The theater was built as a replica of the famed London Theater of the same name, and

WHEREAS, The theater has been a performing arts center of world renown for over 40 years, and

WHEREAS, The Old Globe Theater Company serves as a state and national resource to those interested in all aspects of theater performing arts, and

WHEREAS, The loss of the theater and the interruption of the theater company's work immeasurably hurts all Californians; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members of the Legislature of the State of California urge the Arts Council to take all steps necessary to provide whatever assistance is deemed essential to assist the theater company and the City and County of San Diego with plans to continue the 1978–79 performing arts season at a suitable location, including, but not limited to, technical assistance, and any such other assistance as may be required by the council; and be it further

Resolved, That the Arts Council is requested to seek the assistance of the National Endowment for the Arts and all other appropriate federal agencies to assure the continuing performance of theater arts in San Diego during the 1978–79 performing arts season; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Arts Council.

RESOLUTION CHAPTER 81

Senate Concurrent Resolution No. 75—Relative to volunteers.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, The volunteer is vital to the development of responsive social policy and effective programs on behalf of human needs in both the public and private sector; and

WHEREAS, It is in the public interest to encourage the contribution and commitment of the volunteer; and

WHEREAS, Many important and innovative projects are advanced through volunteer efforts; and

WHEREAS, Volunteer work provides opportunities to every individual for meaningful service participation, personal growth, and career exploration; and

WHEREAS, Volunteers acquire marketable skills and expertise comparable to those developed through paid employment; and

WHEREAS, Failure to provide for volunteer experience on job applications can result in discrimination against those who have gained the bulk of their experience as volunteers; and

WHEREAS, The United States Civil Service Commission, the State Personnel Board, together with an increasing number of state and local governments, charitable and service organizations, and private employers, have provided for a listing and description of relevant volunteer work on employment application forms; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the people of California strongly encourage this state and its local governments, charitable and service organizations, and private employers to take volunteer work experience into account in the consideration of applicants for employment; and be it further

Resolved, That provision be made for a listing and description of relevant volunteer work on all employment application forms; and be it further

Resolved, That job announcements include notice that the applicant's volunteer work will be considered.

RESOLUTION CHAPTER 82

Senate Concurrent Resolution No. 82—Relative to soil erosion control.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, Public Law 92-500, Section 208, requires a plan to make the waters of our state drinkable, swimable and usable for recreation by a specific date; and

WHEREAS, The Califoria Water Resources Control Board has a program underway to realize these water quality objectives; and

WHEREAS, Soil erosion has been identified as having a significant impact on pollution of the state's waterways; and

WHEREAS, Division 9 (commencing with Section 9000) of the Public Resources Code enables formation of Resource Conservation Districts with responsibilities that include the development of programs for the prevention or control of soil erosion; and

WHEREAS, The California Association of Resource Conservation Districts is studying the need for revisions to Division 9 (commencing with Section 9000) of the Public Resources Code; and

WHEREAS, Results of the association's study would be beneficial to the state's resource conservation planning efforts; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California requests the California Association of Resource Conservation Districts, with the full cooperation of the agencies of this state, to expedite this study for revisions to Division 9 (commencing with Section 9000) of the Public Resources Code, especially as it relates to the need for an erosion control program for the State of California; and be it further

Resolved, That the Legislature requests the California Association of Resource Conservation Districts to make erosion control program recommendations available to the Senate and Assembly of the State of California by October 1, 1978.

RESOLUTION CHAPTER 83

Senate Joint Resolution No. 38—Relative to deferred compensation.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, With the approval of the Internal Revenue Service, the State of California in 1974 established a deferred compensation program to encourage and permit state employees to plan for and provide for their retirement; and

WHEREAS, Such programs have been established in 30 other states and consideration is being given by additional states and other public jurisdictions to establish such programs; and

WHEREAS, Programs of this type meet socially desirable objectives and enable public employers with a minimum of expense to assist their employees in planning for the future; and

WHEREAS, These deferred compensation plans for public employees would be rendered ineffective under the proposed Internal Revenue Service rules published in the Federal Register of February 2, 1978; and

WHEREAS, The recent introduction of legislation to require the Internal Revenue Service to maintain its current practice with respect to deferred compensation programs indicates the widespread concern of public employees and public employers over the proposed reversal in Internal Revenue policy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation which will require the Internal Revenue Service to issue regulations consistent with long standing Internal Revenue Service actions which will enable states and local governments to continue deferred compensation plans for their employees which have been established and to permit public agencies to establish new plans; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Treasury, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 84

Senate Joint Resolution No. 40—Relative to urging the President and Congress of the United States to maintain close relations with the Republic of China.

[Filed with Secretary of State August 21, 1978.]

WHEREAS, The great free nation of the Republic of China has been a continuous and faithful ally of the United States for many years, supplying both moral and economic support to the benefit of both nations; and

WHEREAS, The Republic of China has made every effort to develop a free enterprise-based democratic form of government; and

WHEREAS, The cultural interchange between the Republic of China and the United States has benefited both nations; and

WHEREAS, The Republic of China, during the many years since its founding, has pledged its human and economic resources to the defense of free people everywhere; and

WHEREAS, The Republic of China remains steadfast in its friendship toward the United States; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the President and Congress of the United States to make every effort to develop better social and economic relations with the Republic of China and to not in any way detract from our relations with the Republic of China, and that the government of the United States endeavor to do nothing which would compromise the freedom or security of Taiwan or its people; and be it further

Resolved, That the United States reaffirm its commitment to the Republic of China as stipulated in the Mutual Defense Treaty of 1954; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 85

Senate Constitutional Amendment No. 60—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 3.5 to Article XIII, relating to taxation.

[Filed with Secretary of State August 24, 1978.]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 3.5 to Article XIII, to read:

SEC. 3.5. In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this article to maintain the same proportionate values of such property.

RESOLUTION CHAPTER 86

Senate Concurrent Resolution No. 86—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State August 24, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the State's Economy is continued in existence through January 31, 1980, notwithstanding the provisions of any prior concurrent resolution affecting such committee. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 12—Relative to the NFL football in the Los Angeles Memorial Coliseum.

[Filed with Secretary of State August 24, 1978.]

WHEREAS, Three pairs of National Football League teams now play in home ballparks located within a 75 mile radius of each other, the San Francisco 49'ers and Oakland Raiders, the Washington Redskins and Baltimore Colts, and the New York Giants and New York Jets; and

WHEREAS, Los Angeles County and Orange County represent the second largest metropolitan area in the United States; and

WHEREAS, For 30 years, the Los Angeles Memorial Coliseum has served as the home for an affiliate of the National Football League; and

WHEREAS, NFL football has thrived in the Los Angeles Memorial Coliseum as a spectator sport, a successful business franchise, and as an economic and cultural benefit to the community; and

WHEREAS, NFL football in the Los Angeles Memorial Coliseum has been an asset to the central city, resulting in employment and income for hundreds of people who depend on NFL football games; and

WHEREAS, NFL football in the Los Angeles Memorial Coliseum has inspired many young people to complete their basic education or to seek the opportunities of a college education with the benefit of football scholarships or other grants; and

WHEREAS, Any discontinuation of NFL football in the Los Angeles Memorial Coliseum will result in a serious economic and cultural loss to the central city, and will create an economic hardship for many local residents; and

WHEREAS, It will also impose a financial burden on the State of California due to loss of general fund revenue collected from Los

Angeles Memorial Coliseum parking fees; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the National Football League be requested to maintain the tradition of NFL football in the Los Angeles Memorial Coliseum; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commissioner of the National Football League.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 109—Relative to Child Health Disability Prevention Program.

[Filed with Secretary of State August 24, 1978.]

WHEREAS, The Legislature has established the Child Health Disability Prevention Program to provide screening, diagnosis, and referral for treatment of eligible children; and

WHEREAS, The Child Health Disability Prevention Program has, since its inception, been administrated by a separately identified branch within the State Department of Health and is currently a separate branch within the department; and

WHEREAS, The Child Health Disability Prevention Program is a unique program combining a variety of services under one organizational umbrella, ranging from health education to development, diagnosis, and the securing or treatment for children; and

WHEREAS, The Department of Health, which will be reorganized July 1, 1978, into the Department of Health Services, has proposed to transfer such program to the Maternal and Child Health Branch; and

WHEREAS, The Maternal and Child Health Branch has itself been undergoing organizational change to overcome management deficiencies, identified in a review of the branch by the Office of Planning and Program Analysis within the department; and

WHEREAS, The Legislature recognizes the need for close communication and coordination between the programs in Maternal and Child Health Branch and the Child Health Disability Prevention Branch, but finds that these activities can be carried out effectively without consolidation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Child Health Disability Prevention Program remain a branch, separately budgeted and administered within the State Department of Health or its successor, the State Department of Health Services; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Health or such person's successor,

the State Director of Health Services.

RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 117—Relative to metropolitan water districts.

[Filed with Secretary of State August 24, 1978.]

WHEREAS, Existing law authorizes a metropolitan water district, among other things, to acquire, sell, and deliver water at wholesale for municipal and domestic uses and purposes, and fix the rates for such water; and

WHEREAS, A metropolitan water district is also authorized to provide, sell, and deliver surplus water not needed for domestic or municipal uses within the district and to discontinue such delivery on one year's written notice to the purchaser or user; and

WHEREAS, Existing law also requires a metropolitan water district, so far as practicable, to fix water rates as will result in revenue which will pay the operating, repair, maintenance, and other expenses of the district, and authorizes such rates to be different for water from different sources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the board of directors of any metropolitan water district is requested, under cross-examination of witnesses and based upon substantial evidence, to fix rates for surplus water in a manner which will apportion an equitable share of the capital cost and maintenance and operating cost of the district to the vendee; and be it further

Resolved, That the board of directors of any metropolitan water district is requested to develop a water distribution plan to be instituted when a water shortage emergency is declared which would meet the following criteria:

(a) Contain priorities for water delivery during such an emergency, which shall not discriminate between like classes of water users in different member public agencies unless availability of alternate water supplies to such agencies warrant such discrimination.

(b) Be approved by the board each year.

(c) Include, but not be limited to, a written statement defining the conditions when a water shortage emergency may be declared.

(d) Permit the plan during such an emergency to be altered to better conserve existing water supplies; and be it further

Resolved, That the board of directors of any metropolitan water district is requested, so far as practicable, to fix such rate or rates for water as will result in revenue which will pay the operating expenses of the district, provide for repairs and maintenance, provide for

payment of the purchase price or other charges for property or services or other rights acquired by the district, and provide for the payment of the interest and principal of the bonded debt of the district, unless the board finds and determines, after public hearing and cross-examination of witnesses and based upon substantial evidence, that such rates are impracticable, in which case the board is requested to fix such rates which, so far as practicable, will result in revenue necessary to pay the aforementioned expenses and costs, except that the board is requested in no event to fix the rate or rates for water in an amount less than that required to result in revenue which will pay at least all operation and maintenance costs, plus at least one-half of capital charges, including debt service, remaining after first applying annexation charges received for this purpose; and be it further

Resolved, That the board of directors of any metropolitan water district is requested to report to the Legislature, no later than six months following the adoption of this resolution, on the policy of the board regarding the matters specified in this resolution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Board of Directors of the Metropolitan Water District of Southern California.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 124—Relative to the Commission on Peace Officer Standards and Training.

[Filed with Secretary of State August 24, 1978.]

WHEREAS, "Phencyclidine" (PCP) has been identified by the Advisory Council on Narcotics and Drug Abuse as a major problem in California; and

WHEREAS, California accounts for 45 percent of the total national PCP abuse cases reported, and PCP related deaths and overdoses have recently doubled, with 21 PCP deaths in Los Angeles County alone in 1976; and

WHEREAS, Medical authorities indicate that PCP abuse and overdoses are frequently misdiagnosed by both law enforcement personnel as well as emergency medical personnel; and

WHEREAS, There have been numerous instances in which the conditions of PCP abusers have been aggravated by the treatment they received while under the control of law enforcement agencies; and

WHEREAS, Law enforcement personnel have indicated that more information and training is needed with respect to the appropriate techniques for controlling suspected PCP abusers; now,

therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commission on Peace Officer Standards and Training is hereby requested to develop a certified training program related to "phencyclidine" (PCP) and the enforcement of state drug abuse laws, including coverage of the following areas:

1. Identification of individuals under the influence of PCP.
2. Appropriate methods for apprehending and controlling suspected PCP abusers.
3. Crisis intervention techniques for use with PCP abusers.
4. Availability of local emergency services for PCP abusers.
5. Identification and recognition of illegal facilities for the production of PCP.
6. Other aspects of law enforcement and the abuse of phencyclidine; and be it further

Resolved, That such training should be designed primarily to meet the needs of police patrol officers; and be it further

Resolved, That such training program should be available to those law enforcement agencies which request such training and should not necessarily be required of all law enforcement personnel.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 128—Relative to emergency and disaster programs.

[Filed with Secretary of State August 24, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Office of Emergency Services is requested to prepare an annual list of all the emergency and disaster programs available from the State of California and the United States government; and be it further

Resolved, That such report is requested to be made to the Legislature on or before February 1 with sufficient copies for distribution to appropriate state agencies and for distribution by legislators to cities and counties within their respective districts; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of the Office of Emergency Services.

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RESOLUTION CHAPTER 92

Assembly Concurrent Resolution No. 175—Relative to memorializing Pope Paul VI.

[Filed with Secretary of State August 24, 1978]

WHEREAS, His Holiness, Pope Paul VI, Bishop of Rome and Supreme Pontiff of the Roman Catholic Church, passed from this life on August 6, 1978; and

WHEREAS, Pope Paul was an inspiration to millions of citizens of the world for his efforts in seeking peace and justice; and

WHEREAS, In his quest for peace, he became the first Pope to journey to the United States, where he addressed the General Assembly of the United Nations; and

WHEREAS, Pope Paul displayed a great compassion for and understanding of all peoples of varying faiths and beliefs; and

WHEREAS, In his concern for the Catholics of California, he established during his pontificate the new Dioceses of Fresno in 1967 and Orange in 1976; and

WHEREAS, As recently as July 18, 1978, Pope Paul further displayed his solicitude for Catholics in Southern California by creating the new Diocese of San Bernardino;

WHEREAS, Pope Paul singularly honored California in 1973 by elevating to the College of Cardinals Archbishop Timothy Manning of Los Angeles; and

WHEREAS, Timothy Cardinal Manning has journeyed to the Vatican for the funeral of Pope Paul and the election of his successor; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members desire by this resolution to memorialize the outstanding record of Pope Paul VI and express to the Catholic community their sympathy at the passing of this great spiritual leader; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the California Catholic Conference.

RESOLUTION CHAPTER 93

Assembly Joint Resolution No. 20—Relative to Down's Syndrome.

[Filed with Secretary of State August 24, 1978]

WHEREAS, The genetic condition of "Down's Syndrome" in newborns is sometimes referred to as "Mongolism;" and

WHEREAS, This genetic condition afflicts all races of mankind and the use of the incorrect reference to this condition is demeaning and

an affront to the dignity of all members of the Mongoloid race, now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to adopt a resolution urging the elimination of the term "Mongolism" as a synonym for "Down's Syndrome" by any public facility, person, agency, or department, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each member of the Congress of the United States.

RESOLUTION CHAPTER 94

Assembly Joint Resolution No. 62—Relative to the Reclamation Law of 1902.

[Filed with Secretary of State August 24, 1978]

WHEREAS, The purpose of the federal Reclamation Law of 1902 was to develop the water resources of the West and to provide for family farming; and

WHEREAS, California has greatly benefited from reclamation projects; and

WHEREAS, Agriculture is California's number one industry with one out of every three jobs being agriculture related; and

WHEREAS, California farmers and ranchers marketed 9.3 billion dollars in crop and livestock products in 1977 with an estimated impact on the state's economy amounting to 28 billion dollars; and

WHEREAS, As the result of a federal district court ruling, the Secretary of the Interior was ordered to establish rules and regulations implementing reclamation law within the 17 western states; and

WHEREAS, As a result of a federal district court ruling, the Department of the Interior is required to prepare an environmental impact statement prior to the adoption of rules and regulations affecting the Reclamation Law of 1902; and

WHEREAS, The Secretary is presently preparing such a statement; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests that the Secretary of the Interior develop and include the following information on the rules and regulations in the environmental impact statement:

(1) An analysis of the economic ability of family farming to provide adequate income in each agricultural area affected by the reclamation law which would include short and long term considerations of economies of scale, crop patterns, crop

diversification, varying climates and growing seasons, soil types, topography and other factors affecting the production of agricultural commodities.

(2) An analysis of the impact upon the availability of farm financing.

(3) An analysis of secondary costs related to community services, such as roads, schools, fire and police protection, welfare and unemployment.

(4) An analysis of social benefits and detriments.

(5) An analysis of the efficiency of water use.

(6) An analysis of the impact upon farm and nonfarm employment and other aspects of the economy.

(7) An analysis of the availability of qualified family farmers;

(8) An analysis of the available energy sources and their costs;and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 95

Assembly Joint Resolution No. 88—Relative to the avocado industry.

[Filed with Secretary of State August 24, 1978.]

WHEREAS, California's avocado industry consists of over 7,500 growers who produce 80 percent of the avocados consumed in the United States; and

WHEREAS, Avocados are the fastest growing tree fruit crop in California, gaining an additional 8,000 acres during 1977; and

WHEREAS, California's avocado growers, working in cooperation with state government have established stringent standards to insure that high quality produce is available to the consumers of this nation; and

WHEREAS, This important agricultural industry will be jeopardized if foreign imports of avocados are allowed without absolute assurance that the product is of a quality consistent with California standards; and

WHEREAS, The Plant Protection and Quarantine Division of the United States Department of Agriculture is reviewing a proposal that would allow the importation of Mexican avocados to designated areas of the United States; and

WHEREAS, Many areas of Mexico are heavily infested with pests such as the avocado seed weevil, avocado seed moth, Mexican fruit

fly, and conotrachelus weevil which are extremely harmful to avocado production; and

WHEREAS, The importation of Mexican avocados without sufficient safeguards to avoid infestation of the United States crop presents a serious risk that avocado growers of California and the nation will be subjected to extreme economic hardship; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress of the United States, and the Secretary of Agriculture to protect the interests of domestic avocado producers against harm from foreign imports which pose a threat to both producers and consumers alike; and be it further

Resolved, That no imports of Mexican avocados be allowed until there is demonstrated convincing evidence that pests harmful to California's avocado industry have been eradicated from all avocado producing states in Mexico; and be it further

Resolved, That any proposal affecting the importation of avocados from Mexico shall include a public hearing with adequate notice and opportunity to be heard; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 96

Senate Joint Resolution No. 23—Relative to hydroelectric projects.

[Filed with Secretary of State August 25, 1978.]

WHEREAS, Federal Energy Regulatory Commission licenses for 15 hydroelectric projects in California, originally issued between 1920 and 1928, expired between 1970 and 1978; and

WHEREAS, Such licenses when issued provided essentially no protection for fish and wildlife, particularly for maintenance of adequate streamflows below diversion structures; and

WHEREAS, The laws of the United States and the State of California provide for the protection and development of fish and wildlife affected by water and power projects; and

WHEREAS, The licensees of such projects have applied for new licenses, and the Federal Energy Regulatory Commission has authority to include terms and conditions in the new licenses that would restore or improve fish, wildlife, and recreational opportunities associated with such projects; and

WHEREAS, Notwithstanding the fact that the Federal Energy

Regulatory Commission was aware of the exact expiration date of each such license 50 years in advance of such date, it has not taken timely action to relicense such projects with such appropriate terms and conditions; and

WHEREAS, While such relicensing is delayed, the projects continue to be operated under the original terms and conditions pursuant to annual licenses; and

WHEREAS, Timely action for renewal of such licenses would allow an improvement of fish, wildlife, and recreational resources; and

WHEREAS, The failure of the Federal Energy Regulatory Commission to take timely action has continued even when the licensee and the Department of Fish and Game have reached agreement with respect to terms and conditions for restoring or improving fish, wildlife, and recreational opportunities, including the following scheduled instances:

Federal Energy Regulatory Commission number	Expiration date	Project name
67	March, 1971	Big Creek 2A and 8
175	July, 1972	Balch
344	April, 1973	San Gorgonio Nos. 1 and 2
176	June, 1974	Rincon
137	November, 1975	Mokelumne

now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby expresses its strong opposition to continued delays by the Federal Energy Regulatory Commission in relicensing hydroelectric projects in California; and be it further

Resolved, That the Legislature urges that appropriate terms and conditions for restoring or improving fish, wildlife, and recreational opportunities be included in any annual licenses that may be issued by the Federal Energy Regulatory Commission on hydroelectric projects in California; and be it further

Resolved, That the Legislature strongly urges the Federal Energy Regulatory Commission to hold hearings or take such other actions as are necessary or appropriate to expedite all relicensing of hydroelectric projects in California whose licenses have expired, and to include therein terms and conditions for restoring or improving fish, wildlife, and recreational opportunities; and be it further

Resolved, That the Legislature strongly urges the Congress of the United States to hold hearings or take such other actions as are necessary or appropriate to require the Federal Energy Regulatory Commission to implement a relicensing procedure that will preclude the future repetition of this situation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Federal Energy Regulatory Commission, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 97

Assembly Constitutional Amendment No. 82—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 4.5 to Article XIII thereof, relating to property taxation.

[Filed with Secretary of State August 28, 1978.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1977–78 Regular Session commencing on the sixth day of December, 1976, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 4.5 to Article XIII thereof, to read:

SEC. 4.5. The Legislature may provide, with respect to the assessment and taxatin of possessory interests in tax-exempt real property used for berthing of commercial or pleasure vessels, that any such assessments and taxes be prorated for the period of time the taxpayer has the right to possess such tax-exempt property.

The Legislature may provide that taxes on such possessory interests be collected by the owner of the tax-exempt property in installments at the time rental payments are made.

RESOLUTION CHAPTER 98

Assembly Concurrent Resolution No. 100—Relative to auto insurance.

[Filed with Secretary of State August 28, 1978.]

WHEREAS, The major rating factor in automobile insurance is insurance loss costs in geographic rating territories, not a person's driving record; and

WHEREAS, A person's driving record plays less a role in the determination of his or her automobile insurance premiums than the location of his or her residence; and

WHEREAS, The automobile industry argues that geography is a

better predictor of insurance costs than any other factor; and

WHEREAS, Critics of the industry have argued that there is inconsistency among geographic rating territories, resulting in unfair rates; and

WHEREAS, Critics have demonstrated that drivers with good driving records in one geographic rating territory may pay higher automobile insurance rates than drivers with bad driving records in other geographic rating territories; and

WHEREAS, The disparity in existing auto insurance rates between central cities and other areas is so large that it may not be actuarially justifiable; and

WHEREAS, Many central city motorists do not purchase automobile insurance because they cannot afford the high cost; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Insurance, with the cooperation of the Department of Motor Vehicles, study the impact of geographic factors on automobile insurance costs and any other factors, including the location of uninsured motorists, having actuarial significance in automobile insurance costs in order to determine whether existing geographic territorial rates are actuarially valid. If the study finds that the present geographic rating system is not actuarially valid, then alterations in rate setting criteria shall be recommended. The study shall be transmitted to the Legislature on or before July 1, 1979, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Motor Vehicles, the Department of Insurance, and the Department of Consumer Affairs.

RESOLUTION CHAPTER 99

Assembly Concurrent Resolution No. 144—Relative to the creation of the Joint Committee on Peace Officer Classification.

[Filed with Secretary of State August 28, 1978]

WHEREAS, There are currently over sixty classes of peace officers in the State of California encompassing over 100,000 officers; and

WHEREAS, The California State Legislature has considered over 40 bills in the first year of the 1977–78 legislative session concerning the powers, privileges, responsibility, and training of peace officers; and

WHEREAS, A professional, well-trained, clearly defined law enforcement community is essential to the peace, safety, and well-being of our state; and

WHEREAS, The proliferation of peace officer classes, and the fragmentation of their legal authority, powers, and responsibilities is

a source of confusion and concern to the law enforcement community, the public, and the Legislature and an impediment to effective law enforcement; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Joint Committee on Peace Officer Classification is hereby created and authorized and directed to ascertain, study, and analyze all facts relating to the formation of peace officer classes, their powers, duties, and responsibilities in the State of California, including, but not limited to, the operation, effect, administration, enforcement, and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution, and to report thereon to the Legislature, including in the report its recommendations for appropriate legislation.

2. The committee shall consist of three Members of the Senate, appointed by the Committee on Rules thereof, and three Members of the Assembly, appointed by the Speaker thereof. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

3. The committee is authorized to act during the 1977–78 Regular Session of the Legislature, including any recess, and during 1979, with authority to file its final report not later than December 30, 1979, at which time the joint committee is dissolved.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

5. The committee has the following additional powers and duties:

(a) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution.

(b) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

6. The Joint Rules Committee may make such money available from the Contingent Funds of the Assembly and Senate as it deems necessary for the expenses of the committee and its members. In accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

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RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 151—Relative to state prisons.

[Filed with Secretary of State August 28, 1978.]

WHEREAS, The population of California's state prisons is expected to increase in the foreseeable future; and

WHEREAS, The space available for the housing of inmates in the state prisons is inadequate to meet standards recommended for humane housing of the anticipated population; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Corrections be directed to provide within two years, that each prisoner assigned to a cell be housed individually with no less than 48-square feet of cell space; and be it further

Resolved, That the department be directed to use such means as are available under current law to accomplish such purpose either by expediting the addition of new prison facilities or through the diversion of inmates to other available programs or facilities, whether under the jurisdiction of the department or a local jurisdiction as provided by law; and be it further

Resolved, That the department actively pursue such additional means as it may need to comply with the goal set forth herein; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of Corrections.

RESOLUTION CHAPTER 101

Assembly Joint Resolution No. 97—Relative to Outer Continental Shelf Lease Sale #53.

[Filed with Secretary of State August 28, 1978.]

WHEREAS, The United States Department of the Interior is proposing offshore oil and gas development in the outer continental shelf of central and northern California through Lease Sale #53 covering an estimated 10,742,183 acres; and

WHEREAS, The Assembly and Senate of the State of California recognize that unfounded and unreasonable regional objections should not override the national need to develop domestic energy resources; and

WHEREAS, The Assembly and Senate of the State of California recognize that there is also a national and a regional need to minimize the unavoidable air pollution, damage from oilspills, and damage to marine and coastal habitats that would result from oil- and

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gas-related activities offshore of central and northern California; and

WHEREAS, Geological hazards, adverse ocean and weather conditions, and conflicts with proposed ship routing systems pose real and serious risks to outer continental shelf activities offshore of central and northern California; and

WHEREAS, Existing federal oilspill laws are deficient in the matter of adequately protecting the resources, environmental quality, and economy of the state thereby placing greater reliance upon prevention of such occurrences; and

WHEREAS, The offshore oil and gas resource potential is an unknown quantity in the central and northern California outer continental shelf and is recognized by the United States Geological Survey to be of "moderate to low potential"; and

WHEREAS, It is essential that environmental studies to determine the vulnerability and sensitivity of the marine and coastal environments of central and northern California to offshore oil and gas development be completed according to the guidelines established in the National Environmental Studies Program before outer continental shelf tracts are offered for lease sale; and

WHEREAS, It is not the intent of the Assembly and Senate of the State of California that the lease sale date be delayed, but that consideration of the resource potential and the environmental studies program be conducted concurrently and expeditiously with the conduct of the lease sale; and

WHEREAS, Federal and state policies and laws require avoiding or mitigating significant environmental effects whenever feasible to do so and such effects should be known and become a condition to any lease; and

WHEREAS, The exploration for and extraction of oil and gas are prohibited by state law on state lands known as "sanctuary" lands adjacent to Lease Sale #53 and the environmental and mineral resources of such state "sanctuary" lands and other marine and environmental resources may be significantly affected by activities on outer continental shelf lands; and

WHEREAS, State and local governments have consistently opposed Lease Sale #53 since its inception because of a general lack of relevant information upon which to judge the value it would bring or the threat it would pose to the state and its coastal communities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States and the Secretary of the Interior to take all necessary actions to accurately identify the resource potential of the outer continental shelf area of central and northern California covered by Outer Continental Shelf Lease Sale #53 and conduct and fully evaluate an environmental studies program for the area, including geological hazards analyses, concurrently and expeditiously with the conduct of Lease Sale #53; and be it further

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Resolved, That all tracts in Lease Sale #53 which are located adjacent to state "sanctuary" lands and federal and state parks, recreation areas, refuges, and other sanctuaries be excluded from leasing; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Interior, and to the Governor of the State of California.

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 80—Relative to wine labeling.

[Filed with Secretary of State August 30, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members request the Senate Committee on Agriculture and Water Resources and the Assembly Committee on Agriculture to jointly convene interim hearings on the subject of foreign wine labeling and standards, including consideration of the provisions of the Sherman Food, Drug, and Cosmetic Law; and be it further

Resolved, That the Senate Committee on Agriculture and Water Resources and the Assembly Committee on Agriculture jointly report their findings, including proposed legislation, to the Legislature and the Governor not later than August 1, 1979.

RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 94—Relative to employees of local agencies affected by the enactment of Article XIII A of the California Constitution.

[Filed with Secretary of State August 31, 1978.]

WHEREAS, Most California local governments, school districts, and other local political subdivisions which are dependent on the ad valorem property tax for operating revenues must revise downward their prospective budgets, service commitments, and payrolls as a consequence of the enactment of Proposition 13 in the statewide election of June 6, 1978; and

WHEREAS, Notwithstanding prompt action by the Legislature to allocate the state surplus to local public jurisdictions as one means of diminishing the immediate negative impact of the cutbacks made

necessary by Proposition 13, estimates of the aggregate number of layoffs required during the 1978–79 fiscal year by such local public jurisdictions as a means of achieving balanced budgets still project that nearly one hundred thousand jobs in the public sector will have to be eliminated; and

WHEREAS, Such massive layoffs are known to be capable of producing severe negative impacts on the economy, including secondary layoffs among employees of businesses and industries which experience a significant decline in demand as a result of the primary layoffs; and

WHEREAS, The great gains made in recent years by local public jurisdictions toward achieving racial, ethnic, and sexual balance in employment could be swept away by massive layoffs based on a "last-hired, first-fired" principle which is, nevertheless, a traditional equity principle in American layoff practices; and

WHEREAS, A tested alternative to precipitous layoffs is a reduction in the hours of work for an affected work force, as for example the adoption of a four-day week for all employees of a jurisdiction faced with a 20 percent payroll reduction as an alternative to laying off 20 percent of the employees of that jurisdiction; and

WHEREAS, The Legislature has already taken a major step toward making reduced worktime a viable alternative to layoffs by enacting legislation permitting the payment of partial unemployment insurance benefits for temporary work-sharing; and

WHEREAS, Other responsible means of minimizing the potential economically and socially disruptive consequences of drastic reductions in the budgets of local public jurisdictions are now under active study by such jurisdictions as well as by the Legislature, and may, in a relatively short time, offer bases for an orderly transition to significantly diminished local government and public school services, including fair and orderly phaseout plans for no longer needed employees; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature urges consideration of temporary reduced worktime alternatives to massive layoffs, by local governments, school districts, and other local public jurisdictions required to drastically reduce services and payrolls as a consequence of the enactment of Proposition 13; and be it further

Resolved, That it is urged that the State Employment Development Department establish forthwith a technical assistance office to provide local public jurisdictions with consultation, research assistance, and other such assistance as may be appropriate to help explore and develop reduced worktime alternatives to massive layoffs; and be it further

Resolved, That such technical assistance provided by the State Employment Development Department to local public jurisdictions be financed out of the existing resources of the department so as not to create an additional expenditure of state funds; and be it further

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Resolved, That such technical assistance as may be appropriately available from legislative resources shall be made accessible for the same purposes; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of the Employment Development Department; and be it further

Resolved, That the sense of this resolution be communicated immediately by appropriate means to the governing bodies of all such local public jurisdictions.

RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 87—Relative to Native American gathering sites on state lands.

[Filed with Secretary of State September 1, 1978.]

WHEREAS, Native American artisans, medicine people, and others interested in traditional crafts and the healing arts find it increasingly difficult to locate and use sites where materials may be gathered for their work; and

WHEREAS, State-owned lands which support stands of tules, willows, and angelicas used for making baskets, bullrush roots for making dyes, or medicinal herbs are often inaccessible; and

WHEREAS, Even though many of these areas are owned by the State of California and controlled by the State Lands Commission, there is no clear policy directing that these lands be held so as to encourage and allow the gathering of traditional materials, and, as a result thereof, those who construct objects from such natural materials and those who practice traditional crafts and healing arts find it extremely difficult to gather their materials and keep their crafts and culture alive; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Native American Heritage Commission assist the State Lands Commission in the identification of traditional gathering site preserves on state lands, and upon such identification, that the State Lands Commission, under its statutory powers, lease at no cost three parcels of state lands for public agency use purposes to the Native American Heritage Commission for traditional gathering site preserves; and, be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Native American Heritage Commission and to the State Lands Commission.

RESOLUTION CHAPTER 105

Senate Joint Resolution No. 46—Relative to the closing of military facilities.

[Filed with Secretary of State September 1, 1978.]

WHEREAS, The United States Department of Defense has begun a study aimed at the possible closing of the Presidio of San Francisco and Letterman Army Hospital; and

WHEREAS, The Presidio employs over 3,300 military personnel, with 7,000 dependents, and almost 3,500 civilian personnel; and

WHEREAS, The closing of the Presidio of San Francisco and Letterman Hospital would result in a loss of over 3,000 jobs in San Francisco; and

WHEREAS, The Presidio is part of the historical heritage of San Francisco, having served as a military base since 1776; and

WHEREAS, The Presidio is an important municipal asset to the City of San Francisco and its neighbors; and

WHEREAS, The Sixth Army based at the Presidio has played an important and positive role in donating its services for the good of the community; and

WHEREAS, It is essential that the Presidio retain its natural beauty and not be destroyed by land development; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Department of Defense not to close the Presidio of San Francisco or Letterman Army Hospital; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 106

Senate Joint Resolution No. 47—Relative to liability and compensation for oil pollution.

[Filed with Secretary of State September 1, 1978.]

WHEREAS, Oil pollution resulting from the production, refining, transport, transfer and storage of oil on or near the waters of the State of California may be harmful to the natural resources and wildlife of the state, to persons who derive their livelihood from marine-related activities, to recreational opportunities, and to private property; and

WHEREAS, The production, refining, transport, transfer and storage of oil are of vital importance to the economy of the State of

California; and

WHEREAS, Federal law applicable to liability and compensation for oil pollution should be rationalized and expanded by enactment of a unified comprehensive federal law to avoid duplication and to assure adequate and timely compensation for all losses caused by oil pollution; and

WHEREAS, Any such federal law should set a standard of strict liability for oil pollution, consistent with the Clean Water Act of 1977; and

WHEREAS, Any such federal law should provide maximum incentives for all persons producing, refining, transporting, transferring, or storing oil to follow all feasible steps necessary to prevent oil pollution; and

WHEREAS, Any such comprehensive federal law should not prohibit states from imposing liability for oil pollution, so long as duplicative requirements are not imposed and double recovery is not permitted; and

WHEREAS, The claims procedure established by any such federal law should not unnecessarily delay imposition of liability by prohibiting claimants from bringing actions directly against parties who may be liable but deny liability; and

WHEREAS, At the request of several legislators there was recently established a California Interagency Tanker Task Force, composed of legislators and interested state agencies; and

WHEREAS, The California Interagency Tanker Task Force has studied proposals for a comprehensive federal law now pending before the Congress of the United States and has made recommendations supporting the principles set forth in this resolution; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the enactment of a unified comprehensive federal law on liability and compensation for oil pollution; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States to set a standard of strict liability in such legislation including only the defenses to liability now set forth in the Clean Water Act of 1977; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States not to adopt any provision which would prohibit states from imposing liability for losses caused by oil pollution, so long as duplicative requirements are not imposed and double recovery is not permitted; and be it further

Resolved, That the Legislature of the State of California urges the Congress of the United States not to adopt any claims procedure which prohibits the claimant from proceeding directly against any party who may be liable, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Chairman of the President's Council on Environmental

Quality, to the Administrator of the Environmental Protection Agency, to the Administrator of the National Oceanic and Atmospheric Administration, to the Secretary of the Interior, to the Secretary of Transportation, to the Commandant of the United States Coast Guard, to the Speaker of the House of Representatives, to the Chairman of the House Committee on Merchant Marine and Fisheries, to the Chairman of the Senate Committee on Commerce, Science, and Transportation, to the Chairman of the Senate Committee on the Environment and Public Works, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 107

Senate Joint Resolution No. 51—Relative to the de Anza Trail.

[Filed with Secretary of State September 1, 1978.]

WHEREAS, The Congress of the United States is currently considering legislation authorizing the designation of several National Historic Trails; and

WHEREAS, Juan Bautista de Anza opened the first overland passage from Arizona to Monterey; and

WHEREAS, Following the arrival of the settlers in Monterey in March 1776, he set out with a small exploratory troop to examine the San Francisco Bay region, and the people brought by de Anza ultimately settled that area with the establishment of Mission Santa Clara in January 1777, and the founding of Pueblo San Jose in November 1777; and

WHEREAS, The explorations of Juan Bautista de Anza are of great historical significance to, and form an important part of the heritage of, the people of the State of California, as well as of the people of the United States as a whole; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President to support, and the Congress of the United States to enact, legislation designating the de Anza Trail in California as a National Historic Trail; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Interior.

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RESOLUTION CHAPTER 108

Senate Joint Resolution No. 52—Relative to military service.

[Filed with Secretary of State September 1, 1978.]

WHEREAS, Under Army Regulation 601-210, an unmarried person with one or more dependents under 18 years of age is disqualified from service unless the person gives up custody of the child and is relieved of all support obligations; and

WHEREAS, This regulation applies to members of the United States Army, the Army Reserve, and the Army National Guard; and

WHEREAS, This inflexible rule hinders an important policy of this state, which is to encourage increased enrollment in the California National Guard by a broad cross-section of the population, including single parents with children; and

WHEREAS, In contrast to the other branches of service, the United States Air Force has modified its rules to allow pregnant women to remain enrolled in the Air Force Academy and on active duty; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Department of the Army to amend Army Regulation 601-210 so that it no longer disqualifies a single parent from service in the California National Guard; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Department of the Army.

RESOLUTION CHAPTER 109

Senate Concurrent Resolution No. 77—Relative to public utility services to the disabled.

[Filed with Secretary of State September 7, 1978.]

WHEREAS, Handicapped persons face a greater problem than other persons when public utility services are interrupted for any reason; and

WHEREAS, Some public utility corporations make certain provisions for identifying residences where persons are dependent upon a vital life support system, so that any interruption in essential services may be immediately attended to; and

WHEREAS, It is in the public interest for disabled persons to be furnished with information as to what emergency provisions are available in the event a vital life-support system is jeopardized due

to an interruption in any utility service; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Public Utilities Commission is requested to survey the public utilities subject to its jurisdiction which furnish residential services to ascertain what provisions are made for discovering and correcting interruptions of service to disabled persons whose lives may depend upon the continuation of service, and to report to the Legislature thereon on or before July 1, 1979; and be it further

Resolved, That a copy of this resolution be transmitted to the Public Utilities Commission.

RESOLUTION CHAPTER 110

Senate Joint Resolution No. 53—Relative to genocide in Cambodia.

[Filed with Secretary of State September 7, 1978]

WHEREAS, During the aftermath of the 1970–75 war in Cambodia, the Khmer Rouge, the zealous Marxist revolutionaries, have engaged in indiscriminate mass slaughter on a scale that in modern times can be compared only to that in Hitler's and Stalin's concentration camps; and

WHEREAS, This genocide in Cambodia has been carried out during the almost total isolation of the country since the communists took full control there in April 1975; and

WHEREAS, It is a chilling truth that this callous destruction of over one million human beings during the last three years has been carried out with a lackadaisical, ho-hum response from the rest of the world; and

WHEREAS, On April 21, 1978, President Carter denounced the Cambodian regime as "the worst violator of human rights in the world today," but media coverage of the events in Cambodia has been minimal; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to mobilize public opinion and bring pressure to bear upon the Cambodian government by way of the United Nations or other suitable forum to stop the mass killing of Cambodian people presently being carried out by that repressive regime; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 91—Relative to fire prevention planning.

[Filed with Secretary of State September 7, 1978.]

WHEREAS, Many areas of the state have experienced wildland fires which have destroyed and damaged homes and other structures; and

WHEREAS, Since 1961 an estimated 2,000 homes have been destroyed and many others damaged by such conflagrations; and

WHEREAS, Some cities and counties have developed fire prevention programs which include identification of hazardous fire zones, hazardous reduction clearance measures, and building construction standards reflecting the use of fire-resistant and firesafe materials to minimize losses from such fires; and

WHEREAS, Some cities and counties which have wildland fire potential have yet to consider and adopt a fire prevention program reflecting effective prevention standards; and

WHEREAS, The Department of Forestry, pursuant to the provisions of Section 4291 of the Public Resources Code, and other wildland fire protection agencies have the authority to require the clearance of flammable vegetation around buildings up to a distance of 100 feet and the department has developed and maintained an inspection program to apply such requirements statewide; and

WHEREAS, The Department of Forestry has a wildland firesafe planning guide which includes the elements of effective fire prevention planning, including prescribed burning; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That cities and counties with wildland fire potential respond to the need for a local fire prevention program for such wildlands within their respective jurisdictions by November 30, 1979; and be it further

Resolved, That the Department of Forestry make available to cities and counties information on fire prevention planning and fire prevention programs developed by the department, including prescribed burning, and information on fire prevention planning and fire prevention programs developed by those cities and counties which have adopted such programs; and be it further

Resolved, That the Department of Forestry shall report to the Legislature by February 16, 1980, regarding wildland fire prevention programs undertaken by cities and counties; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Director of Forestry and to the governing body of each city and county in this state.

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RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 7—Relating to transportation.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, It is incumbent on the Legislature to plan for and to meet the future transportation needs of the citizens of California, which needs include the efficient and expeditious movement of foreign and interstate cargo and freight through major maritime centers; and

WHEREAS, The potential for locating an international airport on San Pedro Bay is deserving of serious and expeditious consideration; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Secretary of the Business and Transportation Agency is hereby requested to conduct a study, to be funded by moneys appropriated from the Transportation Planning and Research Account in the State Transportation Fund, of the feasibility of constructing maritime facilities in San Pedro Bay and seaward to accommodate air, sea and sub-sea cargo, and freight arrivals and departures together with reports as to the environmental and economic consequences of such a facility; and be it further

Resolved, That the secretary report the findings as to the need for such a facility together with alternatives to satisfy such needs and the environmental consequences of each such alternative to an advisory committee consisting of one member of the Los Angeles Airport Commission, one member of the Long Beach Airport Commission, one member of the Los Angeles Harbor Commission, one member of the Long Beach Harbor Commission, one member of the Senate appointed by the Senate Rules Committee, one member of the Assembly appointed by the Speaker, the secretary or his designee, and the Director of the Office of Planning and Research or his designee; and be it further

Resolved, That the advisory committee is requested to hold meetings at the call of the chairperson to direct the secretary in the effort, and to submit a final report to the Legislature and the Governor making recommendations on or before March 1, 1979, as to action to be taken; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to each member of the advisory committee specified herein, and to the Secretary of the Business and Transportation Agency.

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RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 28—Relative to admission and faculty policies at the University of California and the California State University and Colleges.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Students from rural, low-income, and minority backgrounds are underrepresented at the California State University and Colleges and the University of California, as compared to the number of these students graduating from high school; and

WHEREAS, Revision of University of California undergraduate admissions requirements may perpetuate this situation, making it nearly impossible for the public institutions of higher education to meet the 1980 goal of overcoming underrepresentation of minority and low-income students as requested by Resolution Chapter 209 of the Statutes of 1974; and

WHEREAS, The United States Supreme Court ruled in the University of California Regents v. Bakke case that universities are permitted to consider race in the admissions process as a factor in admissions and that diversity in the university student body is a compelling interest; and

WHEREAS, The underrepresentation of minority and low-income students in the California State University and Colleges and University of California makes it more difficult to increase the number of tenured faculty and nontenured academic staff from minority, rural, and low-income backgrounds; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Trustees of the California State University and Colleges and the Regents of the University of California evaluate and implement admissions criteria and procedures that will achieve a more diverse student body at the undergraduate and graduate levels without lowering the standards of admission; and be it further

Resolved, That the Trustees of the California State University and Colleges and the Regents of the University of California evaluate and implement criteria that will achieve the goal of a more diverse tenured and nontenured faculty and academic staff; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California and the Trustees of the California State University and Colleges.

RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 56—Relative to The Bay Bridge Run.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The Bay Bridge Run is being planned for November 12, 1978, to benefit the San Francisco Conservatory of Music, in that the conservatory will be the beneficiary of funds generated by the race registrants; and

WHEREAS, The San Francisco Conservatory of Music is the largest such school west of Chicago, contributes to the training of virtually all musicians in theater and arts in the western United States, and is considered to be peerless within the United States in its capacity of educating and training musically inclined students; and

WHEREAS, The proceeds of such an event will do much toward supporting the San Francisco Conservatory of Music in its never-ending pursuit of excellence in the training and placement of musicians throughout the United States; and

WHEREAS, The San Francisco Conservatory of Music, as a leader in the musical world, should be encouraged to expand its scope of training to include all economic levels of musical aspirants; and

WHEREAS, The fund-raising Bay Bridge Run will attract runners from all across the nation due to the unique opportunity to transverse the bridge on foot; and

WHEREAS, It is in the best interest of the people of the cities within the bay area and of the State of California to promote the activities of the San Francisco Conservatory of Music; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to authorize the closure of two lanes of the San Francisco-Oakland Bay Bridge for the period of time necessary to permit its use as a part of the course for a marathon run sponsored by the San Francisco Conservatory of Music if the department is requested to do so by the City of San Francisco in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

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RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 57—Relative to the San Francisco Mayor's Cup Marathon.

[Filed with Secretary of State September 18, 1978]

WHEREAS, October 29, 1978, marks the occasion of the running of the San Francisco Mayor's Cup Marathon, from which proceeds will benefit the mentally handicapped; and

WHEREAS, The sponsors of the marathon are the San Francisco Mayor's Office and the Guardsmen, a group, which, since 1947, has helped thousands of bay area youngsters and mentally disabled experience the great outdoors; and

WHEREAS, The San Francisco Mayor's Cup Marathon promises to be one of the great marathon races in the world, as it will allow participants to run across the spectacular Bay Bridge and along the coastline of San Francisco through the Presidio and Golden Gate Park; and

WHEREAS, Abundant cooperation has been received from the Department of the Navy at Treasure Island, the United States Army at the Presidio, the Golden Gate National Recreation Area, and the City and County of San Francisco to make this an outstanding race; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to authorize the closure of two lanes of the San Francisco-Oakland Bay Bridge for the period of time necessary to permit its use as part of the course for a marathon run sponsored by the San Francisco Mayor's Office and the Guardsmen, if the department is requested to do so by the City of San Francisco in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

RESOLUTION CHAPTER 116

Assembly Concurrent Resolution No. 61—Relative to rental housing mediation programs.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The Legislature finds that in our increasingly complex society, there often arise disputes between a landlord and tenant and between tenants of which many could be resolved expeditiously and amicably if the parties to these disputes fully understood their rights

and responsibilities under the law; and

WHEREAS, Communication about these rights and responsibilities is not always complete, comprehensive or easily available to those who could benefit from such information; and

WHEREAS, Several California cities, including Palo Alto, Mountain View and Santa Cruz, operate rental housing mediation programs designed to provide an atmosphere conducive to fair resolutions of disputes between landlords and tenants and between tenants and have proved very successful in resolving such disputes, thereby eliminating the need for the parties thereto to litigate the issues in dispute; and

WHEREAS, Participation by the parties to a dispute in the rental housing mediation process is completely voluntary; and

WHEREAS, A recently completed study of landlord and tenant problems in San Diego, Los Angeles, Denver and Oklahoma City recommended establishment of rental housing mediation boards to resolve such problems; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That cities and counties in California are urged to establish rental housing mediation programs and that such programs offer landlords and tenants an opportunity voluntarily to participate in an informal discussion of the issues before a trained impartial mediator who will attempt to facilitate resolution of the problems; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to all cities and counties in California.

RESOLUTION CHAPTER 117

Assembly Concurrent Resolution No. 93—Relative to study of student achievement in California.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, A significant decline may have occurred in the academic achievement of students in California and this decline may have occurred in each of the basic skills of reading, written expression, social studies, and mathematics; and

WHEREAS, Any such decline might indicate that students frequently do not meet basic standards of proficiency required for college and university coursework and may be inadequately prepared for employment; and

WHEREAS, Various studies have been made of public schools and public school programs in California and nationally which successfully impart basic skills; and

WHEREAS, The Legislature seeks more comprehensive information to determine how to correct any such decline in

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achievement and how to increase performance among California public school students; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the office of the Legislative Analyst conduct a review of the literature relating to the decline in public school student achievement in California and in the nation and submit to the Legislature by September 30, 1978, a report including the following:

1. Documentation of the changes in student achievement in California, specifying the changes in each grade level if possible;

2. A comparison of these changes with those at the national level;

3. An analysis of the reasons for the changes at the state and national level;

4. A discussion of the relationship of categorical funding to changes in student achievement, if possible;

5. Information about innovative programs which seem to increase student achievement;

6. Recommendations to the Legislature about methods for solving the problem of decreased student achievement; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 118

Assembly Concurrent Resolution No. 107—Relative to economic development.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, California sent a delegation of 35 public officials and citizens to the White House Conference on Balanced National Growth and Economic Development, held in Washington, D.C., January 29 through February 2, 1978, to discuss the formation of a national policy on growth and development; and

WHEREAS, The California contingent (including the four legislators who served as delegates from this state) expressed a strong opinion that our state would be well served by holding a similar conference at some time in the near future, as other states have done or are now planning to do; and

WHEREAS, Such a conference should concentrate on the issues of planning for balanced growth in both our population and our economy, creating the conditions for a secure future in energy resources, and setting realistic goals and criteria for regional economic development in our state; and

WHEREAS, Such a conference should be broadly representative of state and local public officials having responsibility in these fields, business and labor leaders, the academic community, minority

groups, women, and youth representatives, and other citizen groups; and

WHEREAS, A statewide conference as described herein should be preceded by county and regional conferences; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the sense of the Legislature that the state government should plan, organize, and conduct a conference on "CALIFORNIA IN THE YEAR 2000: BALANCED GROWTH, ENERGY AND ECONOMIC DEVELOPMENT", in the spring of 1979; and be it further

Resolved, That the Commission for Economic Development is directed to prepare a preliminary plan for such a conference for presentation to the Assembly Committee on Ways and Means and the Senate Committee on Finance within 30 days of the passage of this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to Lieutenant Governor Mervyn M. Dymally, the Chairman of the Commission for Economic Development, the Governor, the Secretary of Business and Transportation, the Director of the Department of Economic and Business Development, and the Director of the Office of Planning and Research.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 108—Relative to automotive parts warranties.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Automobile exhaust has been found to cause a substantial portion of the irritating air pollution in some cities; and

WHEREAS, The Legislature has recognized the need to reduce automobile exhaust emissions and fuel evaporation emissions and, pursuant to that need, created administrative agencies to implement reduction in emissions based upon sound technical bases; and

WHEREAS, The State Air Resources Board has properly established emission control standards, and certified specialty equipment determined to be necessary to meet those standards; and

WHEREAS, The automobile manufacturers and replacement parts manufacturers have been and are working diligently to meet this challenging social need by providing such parts to accomplish emission control at fair prices and quality levels suitable for the use and service intended; and

WHEREAS, The retailers, wholesalers, and distributors of such parts have commendably made such emission control parts readily available throughout this state at fair and economic prices; and

WHEREAS, The automotive service organizations, from the local garage or service station all the way up in size to the major metropolitan franchised dealers, are in the process of equipping themselves and training personnel to implement, successfully and economically, the installation, maintenance, service, and repair of these necessary air pollution emission control parts; and

WHEREAS, The State Air Resources Board has now proposed to require that parts of automobiles very remotely and tangentially related to, or unrelated to exhaust emission control to be excessively warranted against any failure or breakdown for unreasonably long times to the substantial detriment of free market competition, small business, and the consumer; and

WHEREAS, The consumer automotive public, which ultimately must bear the cost and responsibility for servicing of legitimate and necessary parts to control emissions, is now faced with exhorbitant, unnecessary, very high cost, excessively overdesigned parts, with unreasonable service life requirements unrelated to the reasonable use in an automobile, whether for emission control or automotive function, if such proposed requirements are adopted; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Air Resources Board shall interpret and enforce the provisions of Section 43204 of the Health and Safety Code in terms of a warranty confined to emissions-related defects in a motor vehicle or motor vehicle engine, present at the time of delivery to the customer, which could be manifested and demonstrated at any time during the statutory useful life of such vehicle or engine, and which shall be identified, prior to warranty relief, within a specific part. No defect shall be presumed solely from the failure of a motor vehicle to meet required emission levels on a performance test; and be it further

Resolved, That the State Air Resources Board, at this time, shall limit its regulatory control of replacement parts to that provided by subdivision (b) of Section 1900 and subchapter 4 (commencing with Section 2200) of Chapter 3 of Title 13 of the California Administrative Code, as amended in the amendments filed November 28, 1977; and be it further

Resolved, That the State Air Resources Board shall not adopt in-use emissions performance warranty regulations similar to those prescribed in subsection (b) of Section 207 of the Federal Clean Air Act, relative to motor vehicles, motor vehicle engines, and replacement parts, until the following events have occurred:

(1) The development of an experience base from the California Motor Vehicle Inspection Program (MVIP) and analysis of the results to determine the nature and the extent of any problems with vehicles in use, and

(2) Submission of such analysis and recommendation by the State Air Resources Board to the Legislature for its consideration of the necessity of suitable enabling legislation; and be it further

Resolved, That a copy of this resolution be transmitted to the State Air Resources Board.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 110—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State September 18, 1978.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in addition to any money heretofore made available to it, the sum of one million nine hundred thirty-five thousand dollars ($1,935,000), or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses of the Joint Legislative Audit Committee (created by Section 10501 of the Government Code) and its members and for any charges, expenses, or claims it may incur, to be paid from such fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasury.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 113—Relative to Transportation District 7.

[Filed with Secretary of State September 18, 1978]

WHEREAS, Transportation District 7 appears unable to meet the legal district minimum expenditure requirements for the period starting July 1, 1975, and ending June 30, 1979; and

WHEREAS, The expenditure shortfall in Transportation District 7 was approximately $61.5 million as of November 1977; and

WHEREAS, Programmed projects in Transportation District 7 have not been made ready for work to commence in order that district minimum expenditure requirements may be met; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Department of Transportation prepare projects for construction to comply with the statutory minimums for expenditures in Transportation District 7; and be it further

Resolved, That the Department of Transportation report to the Legislature by September 30, 1978, on the balance of funds still unexpended in Transportation District 7 and submit an accounting

of the reasons which have either caused or contributed to the existence of such balance of funds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation.

RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 115—Relative to postsecondary education.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The Legislature, in passing Resolution Chapter 209 of the Statutes of 1974 (ACR 151), recognized that certain groups, as characterized by sex, race, ethnicity, language, or economic background, are underrepresented in our public postsecondary educational institutions as compared with the proportion of these groups in the general population; and

WHEREAS, The Legislature expressed its intent, in Resolution Chapter 209 of the Statutes of 1974, that the problem of this underrepresentation be confronted and overcome by 1980; and

WHEREAS, The public postsecondary educational institutions draw their incoming first year students primarily from the senior classes of our public high schools; and

WHEREAS, These same recognized groups are underrepresented in the eligibility pool of high school graduates for postsecondary educational institutions; and

WHEREAS, The underrepresentation of these groups in the eligibility pool reflects on the performance of public school districts (K–12); and

WHEREAS, Public school districts must share responsibility for the underrepresentation of these groups in institutions of public postsecondary education; and

WHEREAS, It is the intent of the Legislature that public school districts (K–12) make greater effort to ensure proportional representation of these groups in each graduating class, commencing with the school year 1979–80; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Education assess the counseling services and activities in public school districts designed to encourage and facilitate enrollment in postsecondary educational institutions of underrepresented student populations; and be it further

Resolved, That the assessment include, but not be limited to, the following information:

1. A profile of high school counselors which illustrates the sex, race, ethnic group and bilingual ability of the counselors.

2. A description of the curriculum requirements necessary to qualify for a counseling credential, and recommendations for improving the curriculum so that counselors will be better prepared to encourage enrollment of underrepresented students in postsecondary education.

3. A description of the ratio of counselors to students in urban and rural schools, in high and low minority population schools, in high and low income school districts, and in schools with high concentrations of limited and non-English-speaking students.

4. Descriptions of model counseling programs that have a positive correlation with high enrollment of underrepresented student groups in postsecondary educational institutions; and be it further

Resolved, That the report of the assessment be submitted to the Legislature no later than January 1, 1979, with recommendations for overcoming the problems of underrepresentation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of Education.

RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 120—Relative to drug abuse.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Phencyclidine (PCP) has been identified by the Advisory Council on Narcotics and Drug Abuse as a major problem in California; and

WHEREAS, California accounts for 45 percent of the total national PCP abuse cases reported; and

WHEREAS, Drug abuse authorities have indicated that individuals involved in PCP abuse cannot be appropriately treated by the majority of present drug abuse treatment programs; and

WHEREAS, In recent years, PCP has become the drug of choice of an alarming number of young people; and

WHEREAS, Members of the judiciary have requested a brief informational report as an aid in evaluating cases brought before them; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof, concurring, That the State Department of Alcohol and Drug Abuse is requested to prepare and distribute to judges, public defenders, and district attorneys a brief informational report on the social, medical, and legal dimensions of the abuse of phencyclidine (PCP); and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Alcohol and Drug Abuse.

RESOLUTION CHAPTER 124

Assembly Concurrent Resolution No. 126—Relative to use of bold print on governmental forms.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Older consumers have difficulty reading and filling out forms; and

WHEREAS, It is degrading and time consuming to have to ask assistance in using these forms; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Aging with technical assistance from the Department of General Services is directed to review the forms issued by the Franchise Tax Board relating to the Senior Citizens Property Tax Assistance Law and those forms issued by the State Department of Health, or its successor, the State Department of Health Services relating to Medi-Cal; and be it further

Resolved, That it is respectfully requested that the Department of Aging with technical assistance from the Department of General Services make recommendations for improving readability and form design to the Interdepartmental Committee on Aging; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Aging, the Department of General Services, and the Interdepartmental Committee on Aging.

RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 130—Relative to training fair managers.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The Department of Food and Agriculture has no program designed to attract young people to the field of fair management; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Division of Fairs and Exposition within the Department of Food and Agriculture is requested to establish a program, designed to attract young people to fair management, which selects and places qualified young people at state supported fairs in trainee positions as assistants to fair managers, and be it further

Resolved, That the qualifications of young people selected include, but not be limited to, work experience in agricultural management and an educational orientation in agriculture with a vocational or

technical certificate in agriculture or business, or a community college program or college major in agriculture or business, and related vocational youth organization experience, and be it further

Resolved, That the duties of such trainees include, but not be limited to, working with concessionaires, coordination and scheduling of events, working with livestock exhibitors and fair patrons, learning fair financing and budgeting techniques, designing exhibits, publicity, and any other duties which the manager deems appropriate, and be it further

Resolved, That a copy of this resolution be transmitted to the Division of Fairs and Exposition of the Department of Food and Agriculture.

RESOLUTION CHAPTER 126

Assembly Concurrent Resolution No. 131—Relative to the Frank Lanterman Freeway.

[Filed with Secretary of State September 18, 1978]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 2 from Route 134 in Glendale to Route 210 near La Canada is hereby officially designated the Frank Lanterman Freeway; and be it further

Resolved, That the Department of Transportation is hereby requested to erect and maintain appropriate signs, which are consistent with signing requirements for the state highway system, on that portion of Route 2 showing the official designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 137—Relative to school district personnel.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The Legislature finds that there is concern regarding the ratio of administrative and supervisory personnel to classroom teachers; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst is requested to conduct a study of the relationship of administrative and supervisory

personnel and their functions to classroom teachers in a scientific sampling of urban, suburban, and rural unified, elementary, and high school districts; and be it further

Resolved, That the study include a summary of the job descriptions and actual duties of each type of administrative and supervisory personnel and their relationship to the overall instructional program that is provided by the school districts and report the findings and recommendations for legislative action to the Legislature and the Governor not later than December 1, 1979; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 128

Assembly Joint Resolution No. 66—Relative to citizen band radio interference.

[Filed with Secretary of State September 18, 1978]

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation requiring manufacturers to include parts necessary to prevent interference from citizen band radio transmissions on electronic home entertainment equipment; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 129

Assembly Joint Resolution 78—Relative to bilingual education.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The State of California leads the nation in terms of the financial commitment it has made to educationally disadvantaged students and students with linguistic needs; and

WHEREAS, The level of state funds provided for compensatory and bilingual education in California approaches the level of the Elementary and Secondary Education Act of 1965 (ESEA) Title I funds provided by Congress; and

WHEREAS, The State of California has recently enacted a comprehensive, $4.5 billion school finance measure which contains

a new formula for allocating compensatory and bilingual education funds to school districts so that school districts with the greatest need will receive additional state funds made available for compensatory and bilingual education; and

WHEREAS, Funds allocated under the new state compensatory and bilingual education formula provide excess cost services for students who generally qualify for ESEA Title I funds; and

WHEREAS, The new state compensatory and bilingual education formula recognizes ESEA Title I Part A funds because Title I funding levels vary among counties and school districts which have similar needs as determined under the new state formula; and

WHEREAS, The new state compensatory and bilingual education formula complements ESEA Title I funding in that it recognizes the impact that concentrations of low-income students have on the ability of local school districts to support appropriate educational programs; and

WHEREAS, The existing ESEA Title I statute prohibits the recognition of Title I funds for the purposes of allocating state funds, including compensatory and bilingual education funds; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to amend the ESEA Title I statutes to allow states, such as California, which have developed their own significant compensatory and bilingual education programs, sufficient flexibility to ensure that school districts with the greatest relative need receive appropriate levels of compensatory and bilingual education funds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Committee on Human Resources, to the Chairman of the House of Representatives Committee on Education and Labor, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 130

Assembly Joint Resolution No. 79—Relative to the Federal Mine Safety and Health Act of 1977, Public Law 91-173, as amended by Public Law 95-164.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The State of California has been innovative in the area of mine health and safety; and

WHEREAS, The State of California has enacted comprehensive

laws and regulations for mine and tunnel safety; and

WHEREAS, The Tom Carrell Memorial Tunnel and Mine Safety Act (see Sec. 7950 et seq. of the Labor Code) establishes the jurisdictional basis for the Division of Industrial Safety to classify mines, hold prejob safety conferences, certify safety representatives and other related tasks; and

WHEREAS, The surface mining or harvesting of rock, sand and gravel in California differs from coal mining in West Virginia, Ohio, Wyoming, Colorado or New Mexico; and

WHEREAS, The Federal Mine Safety and Health Act of 1977 (Public Law 91-173, as amended by Public Law 95-164), establishes safety enforcement laws and regulations which conflict with those established under the Tom Carrell Memorial Tunnel Mine and Safety Act of 1972, subjecting California rock, sand and gravel producers to double jeopardy in terms of conflicting laws, regulations and penalties; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to amend the Federal Mine Safety and Health Act of 1977 (Public Law 91-173, as amended by Public Law 95-164), so as to avoid duplication of efforts and conflicting laws, regulations and penalties and permit the State of California's Division of Industrial Safety to be the sole safety enforcement agency in the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 80—Relative to workers' compensation.

[Filed with Secretary of State September 18, 1978]

WHEREAS, There is considerable national support to maintain and enhance a viable fishing industry in this country; and

WHEREAS, National concern has been expressed by legislation to aid the construction of commercial fishing boats and by proposed legislation to provide funds both for commercial fishing boat construction and for onshore commercial processing facilities; and

WHEREAS, Recreational boating provides necessary recreational opportunity to millions of Americans; and

WHEREAS, Recreational boating is an important industry providing jobs and income through boatyards, boat manufacturers,

marinas, and numerous support activities; and

WHEREAS, The Department of Labor interpretation of the 1972 Amendments to the Longshoremen's and Harbor Workers' Compensation Act extends the coverage of such act to persons engaged in marine activities not previously covered by the Longshoremen's and Harbor Workers' Act; and

WHEREAS, This interpretation includes, but is not limited to, the activities of fishhouses and boatyards servicing the fishing industry and recreational boating industry; and

WHEREAS, Fish companies and boatyards are now forced to carry, in addition to state workers' compensation insurance, longshoremen's and harbor workers' insurance coverage for their employees; and

WHEREAS, Longshoremen's and harbor workers' compensation insurance coverage is either excessively priced or unobtainable; and

WHEREAS, The imposition of this coverage has created a severe hardship on fish companies and boatyards; and

WHEREAS, Private insurance carriers have canceled the insurance coverage for many fishhouses and boatyards; and

WHEREAS, Some boatyards have been forced out of business, not being able to insure employees, while others are going without compensation coverage for employees and others carrying such coverage have been forced to pay rates in excess of 600 percent of 1974 insurance premiums; and

WHEREAS, This increased cost of doing business will force boatyards either to go out of business, curtail their services, or pass their increased costs to fishermen and recreational boating, thereby making it exceedingly difficult to have fishing vessels constructed or repaired; and

WHEREAS, This increased cost of doing business will force fish companies either to go out of business, curtail their services, or pass their increased costs on, thereby decreasing the price for fish paid to fishermen and increasing the price of fish to the consumer; and

WHEREAS, Congress is considering legislation that can solve this crippling problem; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the State of California petitions Congress to pass the legislation being considered before more unnecessary damage is done to the commercial fishing industry and the recreational boating industry; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 132

Assembly Joint Resolution No. 83—Relative to granting the California Short-Doyle/Medi-Cal Program Special Project Status.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, There has long been state and national concern over rising health care costs, and there is a continuing search for methods of containing such costs; and

WHEREAS, The President's Commission on Mental Health and many other groups and individuals have expressed concern about providing long term mental health care in skilled nursing facilities intended for other uses; and

WHEREAS, There is a longstanding debate about how mental health services may be covered by a national health insurance program; and

WHEREAS, The State of California and the California county governments have operated a special mental health medical assistance program since 1972, known as the Short-Doyle/Medi-Cal Program; and

WHEREAS, The Short-Doyle/Medi-Cal Program offers great promise of resolving some of the broad state and national concerns about financing and delivering mental health services in a cost-effective manner; and

WHEREAS, The Short-Doyle/Medi-Cal Program contains the following innovative features:

(a) All expenditures are limited by budget allocations.

(b) Services can be organized and developed in areas where they would not otherwise be available.

(c) New modes of services are provided which may be more appropriate and effective.

(d) Increased flexibility in staffing permits use of less costly personnel; and

WHEREAS, California has other innovative peer review and psychiatric utilization models in operation which also promise to achieve some of the economies sought in resolving the state and national cost control issues; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the federal government to grant the State of California special project status with accompanying waivers of federal Medicaid regulations, for the following purposes:

(a) To examine the costs and benefits of the Short-Doyle/Medi-Cal Program in comparison with the fee-for-service Medi-Cal system and other models of utilization review and cost containment;

(b) To implement and test a continuum of residential treatment alternatives, using the funds spent in one or more counties under the federal Medicaid program for acute, intermediate, and skilled

nursing care for the mentally disordered; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President's Commission on Mental Health, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Secretary of Health, Education, and Welfare.

RESOLUTION CHAPTER 133

Assembly Joint Resolution No. 86—Relative to the Port of Hueneme.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The Oxnard Harbor District was formed in 1937 for the purpose of constructing and operating a commercial port facility known as the Port of Hueneme; and

WHEREAS, The electorate of the Oxnard Harbor District has invested seven million dollars of tax moneys for the construction of terminal and wharf facilities at the Port of Hueneme; and

WHEREAS, The Port of Hueneme has experienced an average annual compound growth rate of 30 percent in tonnage and revenue volume since 1972; and

WHEREAS, Mazda Motors of America, Inc. and the Oxnard Harbor District have recently signed a 25-year agreement to accommodate the importation of vehicles for distribution to seven southwestern states; and

WHEREAS, Existing ocean cargo traffic at the Port of Hueneme along with anticipated increases in that traffic justifies a change in status of the port from that of a customs station to a Port of Entry; and

WHEREAS, Cargoes now being imported through the Port of Hueneme are estimated to generate custom duty revenue in excess of 1.5 million dollars annually which is more than adequate to support a Port of Entry designation and the assignment of at least a part-time customs inspector to accommodate the need; and

WHEREAS, The Port of Hueneme generates directly and through induced expenditures, approximately 1,500 jobs and 22.9 million dollars in annual payroll; and

WHEREAS, The Port of Hueneme has on several occasions been denied the services of a customs agent which has resulted in the loss of work for local longshoremen and the loss of revenue to the port and the surrounding communities; and

WHEREAS, The denial of customs service relates to the Port of Hueneme's designation as a customs station rather than an official Port of Entry; and

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WHEREAS, The designation of the Port of Hueneme as a Port of Entry is vital and necessary to provide for the port's future growth and development, to protect the taxpayers' investment, and to provide much needed employment for local workers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature urges the Secretary of the Treasury to approve the designation of the Port of Hueneme as a "Port of Entry"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Treasury, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 134

Assembly Joint Resolution No. 96—Relative to fishery resources of the Klamath and Trinity Rivers.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The salmon and steelhead resources in the Klamath and Trinity Rivers are endangered because of habitat degradation and inadequate regulation; and

WHEREAS, Many California Indians depend in large part on these fishery resources; and

WHEREAS, The economies of the Klamath River and Trinity River area and the ocean fisheries are greatly affected by the manner in which fishery resources of those rivers are managed, protected, and enhanced; and

WHEREAS, The State of California has undertaken an ambitious program of restoring the fishery resources of this area; and

WHEREAS, The United States Department of the Interior and the California Fish and Game Commission have instituted an interim closure of the fishery; and

WHEREAS, There is a need for a greater opportunity for California Indians, state and local officials, and the general public to study and comment on the regulations pertaining to fishing in the Klamath and Trinity Rivers prior to their adoption; and

WHEREAS, Regulations are difficult or impossible to enforce without an increased federal enforcement effort and greater cooperation of all parties concerned; and

WHEREAS, An ultimate resolution of the issues involved may take years and require litigation or congressional action to establish the extent of California Indian fishing rights, while without a management plan to protect and enhance the fishery the resource will continue to decline; and

WHEREAS, To achieve long-term enhancement of the Klamath River salmon resource a cooperative management plan needs to be established to protect the resource until the long-term enhancement plan is in place; and

WHEREAS, In the context of the extremely complex overlaps of jurisdictional, economic, and cultural interests which exist in the Klamath River basin a greater degree of cooperation among the parties is essential if the fishery is to be protected and enhanced, and

WHEREAS, The Indian tribes in the Klamath River basin have established tribal fishing rights which have been reaffirmed by the courts but the scope of the tribal fishery has not been clearly established; and

WHEREAS, The Indian tribes are sovereign entities, possessing the right of internal self-government and self-determination and thus the sole right to allocate their share of the tribal fishery among themselves, with whatever federal government involvement is necessary and appropriate; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, Jointly, That the Legislature of the State of California respectfully requests that the United States Department of the Interior and the California Fish and Game Commission quickly promulgate new regulations adequate to protect the fishery resources and traditional Indian fishing rights in the Klamath and Trinity River watersheds; and be it further

Resolved, That the Legislature of the State of California requests that such regulations include no unnecessary restrictions on Indian subsistence and ceremonial fishing or on recreational fishing because of the great importance of such fishing to Indians in the area and to the economy of the area, and because of the minimal impact of such fishing on the fishery resources; and be it further

Resolved, That the Legislature of the State of California requests that such regulations prohibit as necessary commercial fishing in the watersheds of the two rivers because of its relatively great impact on the resources until enhancement of the resource can be demonstrated to warrant such commercial fishing; and be it further

Resolved, That the Legislature of the State of California requests that such regulations include whatever restrictions may be necessary on other taking and on habitat degradation; and be it further

Resolved, That the Legislature of the State of California requests that these regulations be enforced strictly and fairly; and be it further

Resolved, That the Legislature of the State of California requests the United States Department of the Interior and the California Fish and Game Commission to consult fully with all interested parties, including representatives of all affected California Indians, local officials and the general public, to conduct public hearings in the Klamath and Trinity River area, and to utilize fully the information they receive in such consultations and hearings before adopting further regulations or a long-term management and enhancement program; and be it further

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Resolved, That the Legislature of the State of California requests that all appropriate state and federal agencies and representatives of Indian tribes and other interested parties cooperate to develop a fishery enhancement program for the Klamath and Trinity Rivers; and be it further

Resolved, That the Legislature of the State of California respectfully requests the United States Department of the Interior and the Congress of the United States to take no actions which might jeopardize any reserved right to fish for the benefit of entire tribes which Indians may have in the Klamath and Trinity Rivers and which they may exercise in the future; and be it further

Resolved, That the Legislature of the State of California has no intention of affecting by this resolution the precise legal status of some or all of the Indian fisheries or to intervene into the internal affairs of the Indian tribes involved, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 135

Assembly Joint Resolution No. 100—Relative to Santa Ana River flood control.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The Santa Ana River, customarily dry, has a history of occasional severe floods, the most recent occurring in 1969 when 22 lives were lost and 105 million dollars in damages resulted in the three counties of Orange, Riverside, and San Bernardino; and

WHEREAS, In 1941, a short time after the 100-year flood of 1938, Prado Dam was completed creating an illusionary sense of security downstream; and

WHEREAS, In 1962 the boards of supervisors of the three counties requested a federal evaluation of the local situation; and

WHEREAS, In 1964 Congress authorized the Army Corps of Engineers to prepare an evaluation and recommendations; and

WHEREAS, In March 1975, the district engineer's report, identifying the Santa Ana River as the worst potential flood threat west of the Mississippi River, was forwarded to division headquarters and was received in Washington in December 1975; and

WHEREAS, In October 1976, Congress authorized a Phase I General Design Memorandum subject to the issuance of a report and recommendations by the Army Chief of Engineers and to the notification of Congress; and

WHEREAS, The report of the Chief of Engineers was issued in September 1977, and has recently been released by the Office of Management and Budget to the Secretary of the Army who is responsible for notification of Congress; and

WHEREAS, Nearly two million people live in the floodplain area, and potential damages in the area have been estimated at 3.6 billion dollars in 1975 dollars, with approximate estimates of a potential 3,000 lives to be lost; and

WHEREAS, The use of local resources has permitted the achievement of protection for a 70-year flood, the maximum level of protection which can be achieved without this project; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Army Corps of Engineers to proceed expeditiously with preparation of the Phase I General Design Memorandum for the Santa Ana River Main Stem flood control project; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Army Chief of Engineers, to the Los Angeles District Office of the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 102—Relative to human rights.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The obstruction, harassment, and imprisonment of Soviet dissidents, Jews, Christians, and other minorities who seek religious freedom and the right to emigrate, offends the conscience of the American people; and

WHEREAS, The oppressive and discriminatory acts of the Soviet government violates internationally agreed upon principles of human rights; and

WHEREAS, The Soviet government's deplorable treatment of Anatoly Scharansky and Alexander Ginzburg offends the conscience of a free people; and

WHEREAS, The holding of the 1980 Olympic Games in Moscow severely politicizes the ideals of the Olympic Games; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the sustained interest of the American people be

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conveyed to the Soviet government regarding the oppression and imprisonment of Soviet dissidents, the lack of religious liberty, and the inability of people to freely emigrate; and be it further

Resolved, That it is in the best interests of human rights and of the freedom-loving people of the world, that the International Olympic Committee withdraw from Moscow the 1980 Olympic Games, and place them in another country which adheres to the principles of human rights; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Congressman from California in the Congress of the United States, to the United States Olympic Committee, to the International Olympic Committee, and to the Soviet Ambassador to the United States.

RESOLUTION CHAPTER 137

Assembly Joint Resolution No. 105—Relative to the United States Submarine Veterans of World War II.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, During the Second World War, 3,505 members of the United States Navy Submarine Service lost their lives in the service of this country; and

WHEREAS, From the early, darkest days of this country's struggle in that war, submariners held the line, and carried out decisive action to the very shores of the enemy homeland; and

WHEREAS, Time, with other changes it may bring, cannot obscure the devotion to duty and the courage of the men of the submarine service; and

WHEREAS, These submariners were joined by unique bonds of fellowship to their crew and to their service which continued beyond their years of active duty and endure today; and

WHEREAS, Many of these former shipmates have banded together into the United States Submarine Veterans of World War II, a national organization; and

WHEREAS, Congress is presently considering legislation to incorporate the United States Submarine Veterans of World War II; and

WHEREAS, This federal charter would provide long-due recognition and benefit to the brave men who stood fast for their country in a time of peril; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to

enact legislation to incorporate the United States Submarine Veterans of World War II; and, be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Assembly Concurrent Resolution No. 119—Relative to emergency medical personnel.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Phencyclidine (PCP) has been identified by the Advisory Council on Narcotics and Drug Abuse as a major problem in California; and

WHEREAS, California accounts for 45 percent of the total national PCP abuse reported, and PCP related deaths and overdoses have recently doubled; and

WHEREAS, A recent study indicated that the mean age for continuous PCP use is 14.8 years; and

WHEREAS, The same study also indicated that PCP subjects have four times as many overdoses, and twice as many suicide attempts as non-PCP drug users; and

WHEREAS, Drug abuse authorities have reported that the symptoms of PCP use are deceptive and unpredictable, and that such symptoms often reoccur several days after using the drug; and

WHEREAS, There have been several instances where the condition of PCP abusers has been aggravated by the treatment received at emergency medical facilities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Division of Substance Abuse, or its successor, the State Department of Alcohol and Drug Abuse, conduct training programs for emergency medical personnel, including emergency medical technicians, with respect to the treatment of persons under the influence of phencyclidine (PCP); and be it further

Resolved, That such training programs shall be available to the staffs of those emergency medical facilities which request it and shall be provided in a manner determined by the department, and that such training programs shall include, but not be limited to, the following subjects:

(a) Diagnosis of individuals under the influence of PCP or some combination of drugs including PCP.

(b) Appropriate methods for restraining and controlling PCP

abusers who have become violent.

(c) Appropriate treatment for individuals under the influence of PCP.

(d) Awareness of available drug abuse counseling and treatment programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Health or such person's successor, the Director of Alcohol and Drug Abuse.

RESOLUTION CHAPTER 139

Assembly Concurrent Resolution No. 143—Relative to a study of the feasibility of establishing a Department of Tax Appeals.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, California's tax laws are administered by a variety of officials and departments, such as by the State Controller, the Insurance Commissioner, the Department of Motor Vehicles, the Franchise Tax Board, and the State Board of Equalization; and

WHEREAS, In many cases, the only administrative appeal a taxpayer has in seeking a refund of tax is an appeal to the officials administering such tax; and

WHEREAS, There is need to study the feasibility of establishing an independent Department of Tax Appeals to hear most, if not all, appeals from taxpayers, such department to be staffed by hearing officers who are attorneys or certified public accountants who are knowledgeable on tax matters; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commission on California State Government Organization and Economy is requested to study the feasibility of establishing a State Department of Tax Appeals and to report its findings and recommendations, together with a tentative draft of a bill to accomplish such purpose, to the committee on revenue and taxation in each house of the Legislature by no later than the 15th day of January, 1979; and be it further

Resolved, That the Commission on California State Government Organization and Economy is requested to consult with all other state departments and agencies involved in any tax matter in preparing its report; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commission on California State Government Organization and Economy.

RESOLUTION CHAPTER 140

Assembly Concurrent Resolution No. 146—Relative to the Senator John A. Nejedly Bridge.

[Filed with Secretary of State September 18, 1978]

WHEREAS, Senator John A. Nejedly has served as a Member of the Senate since 1969 and is presently serving as the Chairman of the Senate Committee on Natural Resources and Wildlife; and

WHEREAS, Prior to his election to the Senate, he served as the District Attorney and County Counsel for the County of Contra Costa and as the City Attorney for the City of Walnut Creek; and

WHEREAS, In 1972, he authored Senate Bill No. 25, which was enacted as Chapter 765 of the Statutes of 1972, to authorize the design and construction of the new Antioch Bridge; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the new Antioch Bridge is hereby officially designated the Senator John A. Nejedly Bridge; and be it further

Resolved, That the Department of Transportation be directed to erect appropriate signs and markers, consistent with signing requirements for the state highway system, showing this official designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 141

Assembly Concurrent Resolution No. 147—Relative to automatic fire extinguishing systems.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The laws of the State of California and those of many of California's local political subdivisions require the installation of automatic fire extinguishing systems in order to more fully protect life and property in this state; and

WHEREAS, Those responsible for fire service in California are concerned about the abilities and qualifications of persons and firms that install, maintain, and service such automatic fire extinguishing systems; and

WHEREAS, The City of Los Angeles has for approximately 10 years conducted a program of required periodic maintenance, servicing, and testing of automatic fire extinguishing systems and related equipment, as well as for the determination of the qualifications of persons and firms, or both, doing such maintenance, servicing, and testing of automatic fire extinguishing systems, pursuant to Los Angeles Fire Department Chief's Regulation No. 4;

now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Board of Fire Services, with such assistance as may be required from the Contractors' State License Board, conduct a study of the requirements necessary to assure the proper and adequate installation, maintenance, servicing, and testing of automatic fire extinguishing systems, including supervisory equipment which is installed as a reliability component of such systems. Such study shall give consideration to the research and ongoing programs of the Los Angeles Fire Department in this field; and be it further

Resolved, That the State Board of Fire Services submit a report of its study, with legislative recommendations, to the Legislature on or before May 1, 1979; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Fire Services and the Contractors' State License Board.

RESOLUTION CHAPTER 142

Assembly Concurrent Resolution No. 156—Relative to training of teachers of handicapped pupils.

[Filed with Secretary of State September 18, 1978]

WHEREAS, The federal Education for All Handicapped Children Act, P.L. 94-142, requires that all students with exceptional needs be placed in the least restrictive environment, or "mainstreamed", by September 1978; and

WHEREAS, Most teachers in the regular classrooms to which these exceptional students will be assigned have had no professional preparation in meeting the special needs of such students; and

WHEREAS, The goal of providing every student with the educational program most appropriate to his or her needs can be met only by teachers trained to deal with special needs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature call upon school districts and institutions of higher education to ensure that teachers to whom students with exceptional needs are assigned have successfully completed a staff development program designed to enable them to meet the needs of such students and to assist students in the regular program to welcome these students to the classroom; and be it further

Resolved, That the State Department of Education is directed to take all steps necessary to assist school districts in providing the appropriate staff development programs consistent with the

provisions and intent of Chapter 966 of the Statutes of 1977.

RESOLUTION CHAPTER 143

Assembly Concurrent Resolution No. 167—Relative to the Ridgecrest area transportation study.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The Ridgecrest area of Kern County has experienced significant economic and population growth in recent years; and

WHEREAS, The existing street and highway system has become inadequate to meet the transportation needs of this area; and

WHEREAS, The adopted Bowman Road state highway route has been planned for some 25 years to help accommodate the travel demands of this growing community; and

WHEREAS, The Department of Transportation has indicated that the Bowman Road project should now be deleted from the state highway system because of its high cost and the desire of the department to pursue lower cost traffic improvements on other state facilities in the vicinity of the proposed Bowman Road route; and

WHEREAS, The City of Ridgecrest continues to believe that the Bowman Road route is a very necessary improvement to the local transportation systems; now, therefore, be it,

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested, in close coordination and cooperation with the County of Kern, the City of Ridgecrest, and all other appropriate local agencies, to undertake not later than January 1, 1979, a comprehensive study of the transportation needs of the Ridgecrest area, specifically addressing, but not limited to, the following:

(a) An updated traffic study that considers current and future travel demands in the area.

(b) Full consideration of the positive and negative community impacts of building the Bowman Road route and the full impacts of proceeding with the proposed program of the department which does not include Bowman Road.

(c) Recommendations regarding necessary transportion development for the Ridgecrest area over the next 10 years, identifying necessary improvements, their cost, and the timing of implementation so that the local community has a clear concept of the proposed plans of the department for the area; and be it further

Resolved, That the Department of Transportation utilize the information gathered from the previous transportation study of the Ridgecrest area; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation, the Board of

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Supervisors of the County of Kern, and the Mayor of Ridgecrest.

RESOLUTION CHAPTER 144

Assembly Concurrent Resolution No. 176—Relative to congratulating John L. E. "Bud" Collier on his retirement.

[Filed with Secretary of State September 18, 1978]

WHEREAS, Upon the occasion of his retirement as a Member of the California State Legislature representing the 61st Assembly District, the Honorable John L. E. "Bud" Collier is deserving of special recognition and the highest commendations; and

WHEREAS, Assemblyman Collier was born in Wetumpka, Alabama, the son of a blacksmith-farmer, and had six brothers and three sisters; and

WHEREAS, He played all sports in high school, was a member of the football team at the University of Alabama during his freshman year, and played the remainder of his college football days at Occidental College in Los Angeles, where he was an all-conference fullback; and

WHEREAS, During his first year at Occidental, Assemblyman Collier ran a milk route for Crown City Dairy in Pasadena from midnight until daybreak, and later worked an early morning-late afternoon split shift at Sparkletts Water Company; and

WHEREAS, During World War II, he served as a Combat Intelligence Officer in the United States Army Air Corps and participated in the invasions of Sicily, Italy, France and Holland; and

WHEREAS, Following the war, Assemblyman Collier ran for and was elected to the Assembly in 1946 on a campaign platform which followed a strict interpretation of the U.S. Constitution as written by the Founding Fathers, and he has consistently maintained this philosophy throughout his illustrious career; and

WHEREAS, He has provided effective leadership as Chairman of the Republican Caucus in the Legislature, of the Los Angeles City Delegation to the Assembly, and of the Assembly Education Committee, and he has also distinguished himself as coauthor of the California Water Plan and as a member of the State Budget and School Finance Committees, as well as the Assembly Committee handling legislation pertaining to public utilities and corporations; and

WHEREAS, Assemblyman Collier authored the first Lobby Control Act in the state, fought for revisions in the controversial text, Land of the Free, authored the educational plan of "Learn-Earn-Reimburse" and the "Collier Factor," which was applauded by the California Teachers Association as a "milestone in school finance," and was instrumental in reducing the class size of

first, second, and third graders for more individualized teacher-student attention; and

WHEREAS, He has vigorously opposed strikes of teachers, has authored an expenditure control measure for local government to ease the burden on property taxpayers, and has written a plan to reimburse local government for lost revenue due to state purchase of property and consequent removal of such property as a source of local taxation; and

WHEREAS, In addition to his successful professional contributions, Assemblyman Collier has given extensively of his time and energy on behalf of Kappa Sigma Fraternity, the Elks, Kiwanis International, the American Legion, the Veterans of Foreign Wars, Amvets, Los Angeles Town Hall, and the Masons; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Members express their commendations and appreciation to their colleague and good friend, the Honorable John L. E. "Bud" Collier, for his 32 years of outstanding and dedicated service to his constituents and to all of the people of the State of California, and convey to him their best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Assemblyman John L. E. "Bud" Collier.

RESOLUTION CHAPTER 145

Assembly Concurrent Resolution No. 177—Relative to the Joint Legislative Committee on Energy Policy and Implementation.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, The establishment and implementation of an energy policy to provide a reliable supply of energy, consistent with the protection of health and welfare, enhancement of employment opportunities, and protection of environmental quality, is necessary in order to maintain a healthy economy within California; and

WHEREAS, The State Energy Resources Conservation and Development Commission has been delegated extensive responsibilities by the Legislature for powerplant siting, energy supply and demand forecasting, energy conservation, and alternative energy development; and

WHEREAS, The commission, in existence since 1975, may have been deterred by institutional problems and policy conflicts from functioning optimally to clearly articulate and implement state energy policy; and

WHEREAS, The potential exists for institutional and policy

conflicts between the energy commission, the State Air Resources Board, the California Coastal Commission, the State Water Resources Control Board and the Public Utilities Commission, which may lead to fragmented and uncertain state energy policies; and

WHEREAS, Institutional changes in the State Energy Resources Conservation and Development Commission and other state agencies, effectuated by statute, may be necessary in order to obtain a clear articulation and implementation of state energy policy; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

1. The Joint Legislative Committee on Energy Policy and Implementation is hereby created.

2. The committee shall consist of the chairman and three members of the Assembly Resources, Land Use, and Energy Committee appointed by the Speaker of the Assembly, and the chairman and three members of the Senate Public Utilities, Transit and Energy Committee appointed by the Senate Rules Committee. Vacancies occurring in the membership of the committee shall be filled by the appointing power. The chairman and vice chairman of such committee shall be selected by the membership thereof and shall be from separate houses of the Legislature.

3. The committee shall submit to the appropriate standing committees of the Senate and the Assembly, no later than January 30, 1979, an analysis of the current effectiveness of the State Energy Resources Conservation and Development Commission, and of alternatives for institutional reorganization of the commission which, in the judgment of such committee, will provide increased clarity and cohesion in establishing state energy policy and in implementing such policy. Alternatives considered by the committee shall include, but shall not be limited to: (a) reorganization of the State Energy Resources Conservation and Development Commission, (b) replacement of the State Energy Resources Conservation and Development Commission by a new or alternate agency, and (c) reallocation of responsibilities among the State Energy Resources Conservation and Development Commission, the State Air Resources Board, the California Coastal Commission, the Public Utilities Commission and the State Water Resources Control Board.

4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

5. The chairman and vice chairman of the joint committee shall jointly appoint a special advisory committee to the joint committee for the purpose of recommending alternatives for reorganizing energy policy and regulatory activities within state government. Such advisory committee shall be composed of not more than 12

members (comprising a representative cross section of California citizens and interest groups) who shall have knowledge of, and expertise in, the various institutional alternatives which may be employed to formulate and implement energy policy. The advisory committee shall be appointed as soon as possible. The chairman of the joint committee, or his designee, shall preside at meetings of the advisory committee, but shall not vote in the deliberations of such committee.

6. Necessary staff services for the joint committee and the advisory committee shall be provided to the maximum possible extent from the respective staffs of the Assembly Committee on Resources, Land Use, and Energy and the Senate Committee on Public Utilities, Transit and Energy, except that the committe shall employ a full-time project director who shall be responsible for the day-to-day activities of the committee.

7. The Joint Committee on Energy Policy and Implementation shall terminate on March 31, 1979.

8. The Joint Rules Committee shall make fifty thousand dollars ($50,000) available from the Contingent Funds of the Assembly and Senate, for the expenses of the joint committee and its members and for any charges, expenses, or claims it may incur under this resolution; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 146

Assembly Concurrent Resolution No. 179—Relative to congratulating Kenneth L. Maddy on his retirement.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Upon the occasion of his retirement as a Member of the California State Legislature, representing the 30th Assembly District, which includes the western half of Fresno County, all of Mariposa and Madera Counties, and the southern and eastern portions of Merced County, the Honorable Kenneth L. Maddy is deserving of special recognition and the highest commendations; and

WHEREAS, Assemblyman Maddy, a native Californian, graduated from Fresno State University in 1957 with a Bachelor of Science degree in agriculture, and after graduation, he served in the United States Air Force for three years as an air police officer, after which he attended and graduated from the University of California at Los Angeles School of Law with a Juris Doctorate degree; and

WHEREAS, He is a senior partner in the Fresno-based law firm of

Chinello, Chinello, Maddy and Shelton, and is a member of both the Fresno and California Bar Associations; and

WHEREAS, He has long been active in community affairs, as he was a 1969 finalist for the Fresno Volunteer of the Year Award, Chairman of the Fresno Urban Coalition and the Advisory Committee of the Concentrated Employment Program, Vice President of the Fresno Philharmonic Association, and a member of the Fresno Central Business District Coordinating Committee and the Fresno Economic Opportunities Commission; and

WHEREAS, In 1970, in his first try at public office, Assemblyman Maddy was elected to the State Assembly and has been reelected for three additional terms, while distinguishing himself as one of 50 legislators selected from throughout the United States in 1972 to attend a conference conducted by the Eagleton Institute of Politics of Rutgers University with the goal of improving state legislatures throughout the country; and

WHEREAS, His record in the Legislature reflects his deep personal concern for the problems facing all Californians, and as an opponent of secrecy in government, he authored legislation requiring that all Assembly meetings be open to the public, and authored the Maddy Appointive Registry Act of 1974; and

WHEREAS, Assemblyman Maddy's farm legislation demonstrates his continuing efforts to alleviate the farm labor controversy in California, and his legislation was noted by the California Bar Association as the "most comprehensive" bill introduced in the 1975 session; and

WHEREAS, During his illustrious tenure in the Legislature, Assemblyman Maddy has provided great leadership as Chairman of the Human Resources Committee, Vice Chairman of the Select Committee on Farm Labor Violence, and a member of the Joint Committees on Legal Equality and Public Employer-Employee Relations, the Select Committee on Juvenile Violence, and the Special Subcommittee on California Food and Agricultural Economy; and

WHEREAS, Assemblyman Maddy is Chairman of the Criminal Justice Committee, a member of the Judiciary and Governmental Organization Committees, and Vice Chairman of the Select Committee on the Revision of the Nonprofit Corporation Code, the Joint Committee on Revision of the Penal Code, and the Select Committee on Corrections; and

WHEREAS, Assemblyman Maddy has become one of the leading spokesmen for agriculture in California, and in many other areas has displayed exemplary leadership on behalf of his fellow citizens; and

WHEREAS, Assemblyman Maddy ran for the Republican nomination for Governor in the June 1978 primary election during which he made an unprecedented rise in the polls, especially for a rural Legislator, and became a major contender and recognized party and statewide leader; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate

thereof concurring, That the Members express their commendations and appreciation to their colleague and good friend, the Honorable Kenneth L. Maddy, for his outstanding record of dedicated service to his constituents and to all of the people of the State of California, and convey to him their best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Assemblyman Kenneth L. Maddy.

RESOLUTION CHAPTER 147

Assembly Concurrent Resolution No. 180—Relative to commending Assemblyman Dixon Arnett.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Assemblyman Dixon Arnett will be leaving the Assembly at the close of the 1977–78 Regular Legislative Session; and

WHEREAS, Born in Trenton, New Jersey, February 12, 1938, he became a resident of California in 1956 while attending Stanford University from which he received an A.B. degree in Political Science in 1960; and

WHEREAS, He enlisted in the U.S. Army reserve in 1956, and served four years before going on two years active duty in 1961; and

WHEREAS, Prior to active military service he was on special assignment with the United State Federal Bureau of Narcotics, and was Director of Community Relations and Associate Director of University Relations at Stanford University; and

WHEREAS, He first ran for public office in 1968 when he was elected to the City Council of Redwood City, and he was first elected to the Assembly in 1970 as the representative of the 26th Assembly district which later became the 20th Assembly district; and

WHEREAS, His legislative service has been characterized by a high level of service in his district office and has involved responding to thousands of letters and phone calls from constituents and maintaining contact with various state agencies—all with dedicated attention and assistance to children and senior citizens with special needs; and

WHEREAS, He has considered issues carefully, often with rare insight and original thought, has understood the issues involved in the competition between environmental protection and economic concerns, and has displayed the will, intelligence, and integrity demanded by the public in his obligations as a legislator; and

WHEREAS, He has authored significant legislation covering a variety of issues including school finance, autistic children, illegal aliens, bulletproof vests, catastrophic health insurance, drug abuse, property tax relief, and environmental protection legislation; now,

therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members express their sincerest commendations and appreciation to their colleague and good friend, the Honorable Dixon Arnett for his outstanding record of dedicated service to his constituents and to all of the people of the State of California, and convey to him their best wishes for every success in his furture endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Assemblyman Dixon Arnett.

RESOLUTION CHAPTER 148

Assembly Concurrent Resolution No. 181—Relative to congratulating Jerry Lewis on his retirement from the California State Assembly.

[Filed with Secretary of State September 18, 1978.]

WHEREAS, Upon the occasion of his retirement as a Member of the California State Legislature representing the 67th Assembly District, the Honorable Jerry Lewis is deserving of special recognition and the highest commendations; and

WHEREAS, A lifelong resident of Southern California, Assemblyman Lewis graduated from the University of California at Los Angeles with a Bachelor of Arts degree in Government, and continued his education as a graduate intern in Public Affairs, receiving a Coro Foundation Scholarship which provided a year of practical training in government service; and

WHEREAS, He has also developed and operated a successful and nationally recognized life insurance business for almost two decades, and he has served as a member of the San Bernardino County School Board, the Executive Board of the San Bernardino County School Boards Association and the Board of Delegates of the California School Boards Association; and

WHEREAS, Prior to election in 1968, Assemblyman Lewis worked as field representative for the late Congressman Jerry Pettis, and he is now a member of the three most important committees in the State Assembly: Ways and Means, Revenue and Taxation, and the Rules Committee, of which he is Vice Chairman; and

WHEREAS, During his last reelection, he distinguished himself by becoming the first Republican since crossfiling in California to receive both the Republican and Democratic nominations in the primary election, and he has always been in the forefront of the State Legislature in improving the quality of life for all Californians, especially in the field of educational policy development; and

WHEREAS, Concerned with the protection of our environment,

Assemblyman Lewis provided leadership as the first Chairman of the Subcommittee on Air Quality, and was successful in authoring legislation that established a new pollution control district in the South Coast Air Basin, while also designing and successfully authoring the California Desert Native Plants Act; and

WHEREAS, His interest in education, especially child development, has been far-reaching in the Legislature. During the 1970 and 1972 legislative sessions, he authored successful measures designed to eliminate red tape and provide sweeping changes in child care programs; and

WHEREAS, Believing that the basic solutions to many of society's problems can be found through education, Assemblyman Lewis has worked diligently in that field as a member of the Assembly Education Committee for the past six years and as a member of the Ways and Means Subcommittee on Educational Finance; and

WHEREAS, In recognition of his great leadership and many accomplishments on behalf of Californians, the State Junior Chamber of Commerce in 1970 named him as one of the "Five Outstanding Young Men in California"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members thereof express their commendations and appreciation to their colleague and good friend, the Honorable Jerry Lewis, for his superior record of dedicated service to his constituents and to all the people of the State of California, and convey to him their best wishes for every success in his future endeavors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Assemblyman Jerry Lewis.

1977–78

FIRST EXTRAORDINARY SESSION

PROCLAMATION BY THE GOVERNOR

Convening the Legislature in First Extraordinary Session

PROCLAMATION

An extraordinary occasion has arisen requiring that the Legislature of the State of California be assembled in special session.

Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby assemble the Legislature of the State of California in special session at Sacramento at 1:30 p.m., Thursday, January 5, 1978, to consider and act on tax relief legislation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 5th day of January 1978.



Governor

ATTEST:

Secretary of State

Deputy Secretary of State

CHAPTER 1

An act to amend Sections 41814 and 84772 of, and to add Sections 41815 and 84773 to, the Education Code, to amend Section 16113 of, and to repeal Section 29100.5 of, the Government Code, and to amend Sections 219, 6359.4, 23151, 23181, 23182, 23184, 23186, and 23400 of, and to add Sections 234, 26482, and 26483 to, and to repeal Sections 6354, 6359.5, 6383, and 6395 of, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 20, 1978. Filed with Secretary of State April 20, 1978.]

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

SECTION 1. Section 41814 of the Education Code is amended to read:

41814. The Superintendent of Public Instruction shall compute the state equalization aid pursuant to this article upon the basis that the district's assessed value has not been reduced by the homeowners' property tax exemption.

SEC. 2. Section 84772 of the Education Code is amended to read:

84772. The Chancellor of the California Community Colleges shall compute the state equalization aid pursuant to this article upon the basis that the district's assessed value has not been reduced by the homeowners' property tax exemption.

SEC. 3. Section 41815 is added to the Education Code, to read:

41815. (a) Notwithstanding any other provisions of law, in computing district equalization aid under this code, the full amount of the state reimbursement for inventory tax revenues received by districts pursuant to Section 16113 of the Government Code shall be added to district revenue.

(b) The amount received by each district pursuant to Section 16113 of the Government Code shall be deemed to be unsecured property tax revenue in the computation of the secured property tax rate of such district.

SEC. 4. Section 84773 is added to the Education Code, to read:

84773. (a) Notwithstanding any other provisions of law, in computing district equalization aid under this code, the full amount of the state reimbursement for inventory tax revenues received by districts pursuant to Section 16113 of the Government Code shall be added to district revenue.

SEC. 5. Section 16113 of the Government Code is amended to read:

16113. (a) Each county auditor shall file a claim with the Controller on or before the last day of August of each year for reimbursement to local governmental agencies for the tax loss attributable to property on the unsecured roll by reason of the

reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(b) Each county auditor shall file a claim with the Controller on or before October 31st of each fiscal year for reimbursement to local governmental agencies for the tax loss attributable to property on the secured roll by reason of the reduced assessment ratio of commercial passenger fishing vessels provided for in subdivision (c) of Section 227 of the Revenue and Taxation Code.

(c) For the 1978–79 fiscal year, and each fiscal year thereafter the amount the state shall reimburse each city, county, city and county, special district, and school district, including community college districts, for revenue losses by reason of the exemption for business inventories provided for in Section 219 of the Revenue and Taxation Code and livestock as provided in Section 5523 of such code, shall be computed as follows:

(1) An Inventory Revenue Amount shall be computed for each local agency as follows:

(A) For the 1978–79 fiscal year, the Inventory Revenue Amount shall equal twice the state reimbursement for business inventory and livestock exemptions for 1977–78 increased by a percentage equal to the State Reimbursement for Inventory Tax Factor. For purposes of this subdivision, the reimbursement for livestock exemption shall be computed disregarding the effect of Chapter 173 of the Statutes of 1977.

(B) For the 1979–80 fiscal year, and each fiscal year thereafter, the Inventory Revenue Amount shall equal the prior year's Inventory Revenue Amount, before the adjustment made pursuant to subparagraph (C), increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(C) For fiscal years 1978–79 through 1982–83, inclusive, the Inventory Revenue Amount for each local agency shall be reduced by the amount of property tax levied on business inventories and the amount of head-day tax levied on livestock.

(2) With respect to the 1978–79 fiscal year and each fiscal year thereafter:

(A) Each county auditor shall file a claim with the Controller on or before October 31 of each fiscal year for reimbursement to local agencies for one-half of the Inventory Revenue Amount computed pursuant to subdivision (c) (1), reduced by one-half of the revenues attributable to escape assessments in business inventories, received prior to September 30 of the fiscal year.

(B) Each county auditor shall file a claim with the Controller on or before May 30 of each fiscal year, for reimbursement to local agencies, for one-half of the Inventory Revenue Amount computed pursuant to subdivision (c) (1), reduced by one-half of the revenue attributable to escape assessment of business inventories received after September 30 but prior to May 1 of the fiscal year.

(3) For purposes of this subdivision:

(A) "Local agency" means a city, county, city and county, special district, school district or community college district.

(B) "State Reimbursement for Inventory Tax Factor" means:

(i) For cities, counties and special districts: a percentage equal to the percentage change in the price deflator, as defined in Section 2261 of the Revenue and Taxation Code.

(ii) For school districts and community college districts: 8 percent with respect to fiscal years 1978–79 and 1979–80; 6 percent with respect to fiscal years 1980–81 and thereafter.

SEC. 6. Section 29100.5 of the Government Code is repealed.

SEC. 7. Section 219 of the Revenue and Taxation Code is amended to read:

219. (a) Business inventories shall be assessed for taxation at the same ratio of assessed to full case value as the ratio specified in Section 401.

(1) After such property has been so assessed, 30 percent of the assessed value of such property shall be exempt from taxation through the 1972–1973 fiscal year, and such exemption shall be indicated on the assessment roll.

(2) For the 1973–1974 fiscal year, 45 percent of the assessed value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(3) For 1974–1975 fiscal year to the 1977–1978 fiscal year, inclusive, 50 percent of the assessed value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(4) For the 1978–79 fiscal year, 60 percent of the assessed value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(5) For the 1979–80 fiscal year, 70 percent of the assessed value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(6) For the 1980–81 fiscal year, 80 percent of the assessed value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(7) For the 1981–82 fiscal year, 90 percent of the assessment value of such property shall be exempt from taxation, and such exemption shall be indicated on the assessment roll.

(8) For the 1982–83 fiscal year and fiscal years thereafter, business inventories shall be exempt from taxation, and assessors shall no longer assess business inventories.

(b) The county assessor shall notify the auditor of the total assessed value of the exempt property within each city, district and revenue district wholly or partially within the county. The exemption provided for in this section shall not apply to business inventories assessed as escaped property under the provisions of Sections 531.3, 531.4 or 531.5 where (1) the omission is willful or fraudulent, (2) the failure to report the property accurately is willful or fraudulent, or (3) the exemption was incorrectly allowed because

of erroneous or incorrect information submitted by the taxpayer or his agent with knowledge that such information was erroneous. The board shall prescribe all procedures and forms required to carry this exemption into effect and to insure accurate data for reimbursement calculations.

(c) In carrying out the duties imposed by this section, the board shall certify to the auditor of each county in which is located a chartered city which assesses property for city tax purposes, the ratio which the auditor shall use to factor the county roll in order to compute the amount of such city's reimbursement. The ratio certified shall be the same ratio used by the board in connection with public utility property on the board roll.

(d) Where a city transfers the assessing and tax-collecting functions to the county but continues to assess and collect unsecured taxes for one additional year, the county auditor, in computing the city's reimbursement for the business inventory exemption, shall factor the exempt inventory value on the county unsecured roll with tax situs in the city by the ratio used by the board in the prior year in preparing the board roll for the city.

SEC. 7.5. Section 234 is added to the Revenue and Taxation Code, to read:

234. Materials and supplies owned and held by a railroad for railroad operations shall be exempt from property tax pursuant to the following schedule:

For the 1978–79 fiscal year, 60 percent of the value of such materials and supplies shall be exempt from taxation.

For the 1979–80 fiscal year, 70 percent of the value of such materials and supplies shall be exempt from taxation.

For the 1980–81 fiscal year, 80 percent of the value of such materials and supplies shall be exempt from taxation.

For the 1981–82 fiscal year, 90 percent of the value of such materials and supplies shall be exempt from taxation.

For the 1982–83 fiscal year, and each fiscal thereafter, 100 percent of the value of such materials and supplies shall be exempt from taxation.

The revenue loss to local government pursuant to this exemption shall be reimbursed by the state in the same manner and at the same time as for fishing boats pursuant to Section 16113 of the Government Code.

SEC. 8. Section 6354 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 6359.4 of the Revenue and Taxation Code is amended to read:

6359.4. Any vending machine operator is a consumer of, and shall not be considered a retailer of, tangible personal property which sells at retail for ten cents ($0.10) or less and which is actually sold through a vending machine.

SEC. 10. Section 6359.5 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 6383 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 6395 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 23151 of the Revenue and Taxation Code is amended to read:

23151. (a) With the exception of financial corporations, every corporation doing business within the limits of this state and not expressly exempted from taxation by the provisions of the Constitution of this state or by this part, shall annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, to be computed at the rate of 7.6 percent upon the basis of its net income for the next preceding income year. In any event, each such corporation shall pay annually to the state, for the said privilege, a minimum tax of one hundred dollars ($100).

(b) For calendar of fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending in 1978, the rate of tax shall be 9.25 percent.

(d) For calendar or fiscal years ending in 1979, the rate of tax shall be 9.5 percent.

(e) For calendar or fiscal years ending in 1980, the rate of tax shall be 9.75 percent.

(f) For calendar or fiscal years ending in 1981, the rate of tax shall be 10 percent.

(g) For calendar or fiscal years ending in 1982, the rate of tax shall be 10.25 percent. The 10.25 percent rate specified in this subdivision shall be 10 percent if the combined Bank and Corporation Tax revenues collected in the 1978–79 fiscal year through the 1980–81 fiscal year, inclusive, total more than seven billion four hundred twenty million dollars ($7,420,000,000).

(h) For calendar or fiscal years ending in 1983, the rate of tax shall be 10.25 percent. The 10.25 percent tax specified in this subdivision shall be 10 percent if the combined Bank and Corporation Tax revenues in the 1978–79 fiscal year through the 1981–82 fiscal year, inclusive, total more than ten billion five hundred twenty million dollars ($10,520,000,000).

(i) For calendar or fiscal years ending in 1984 and thereafter, the rate of tax shall be 10 percent.

(j) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in subdivision (a) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

SEC. 14. Section 23181 of the Revenue and Taxation Code is amended to read:

23181. (a) Except as otherwise provided herein, an annual tax is hereby imposed upon every bank located within the limits of this state according to or measured by its net income, upon the basis of

its net income for the next preceding income year at the rate provided under Section 23186. With respect to the taxation of national banking associations, the state adopts the method numbered (4) authorized by the act of March 25, 1926, amending Section 5219 of the Revised Statutes of the United States, Title 12, Section 548, United States Code.

(b) If a bank commences to do business and ceases doing business in the same taxable year, the tax for such taxable year shall be according to or measured by its net income for such year, at the rate provided under Section 23186.

(c) With respect to a bank, other than a bank described in subdivision (b), which ceases doing business after December 31, 1972, the tax for the taxable year of cessation shall be:

(1) According to or measured by its net income for the next preceding income year, to be computed at the rate prescribed in Section 23186, plus

(2) According to or measured by its net income for the income year during which the bank ceased doing business, to be computed at the rate prescribed in Section 23186.

(d) In the case of a bank which ceased doing business before January 1, 1973, but dissolves or withdraws on such date or thereafter, the tax for the taxable year of dissolution or withdrawal shall be according to or measured by its net income for the income year during which the bank ceased doing business, unless such income has previously been included in the measure of tax for any taxable year, to be computed at the rate prescribed under Section 23186 for the taxable year of dissolution or withdrawal.

(e) Commencing with income years beginning in 1980, every bank not otherwise taxed under this chapter shall pay annually to the state a tax of two hundred dollars ($200).

SEC. 15. Section 23182 of the Revenue and Taxation Code is amended to read:

23182. The tax imposed under this part upon banks and financial corporations is in lieu of all other taxes and licenses, state, county and municipal, upon the said banks and financial corporations except taxes upon their real property, local utility user taxes, sales and use taxes, state energy resources surcharge, state emergency telephone users surcharge, and motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

The changes in this section made by the 1977–78 Legislature with respect to sales and use taxes apply to income years beginning on and after January 1, 1979, and the remaining changes apply to income years beginning on and after January 1, 1980.

SEC. 16. Section 23184 of the Revenue and Taxation Code is amended to read:

23184. (a) Financial corporations may offset against the franchise tax the amounts paid during the income year to this state or to any county, city, town, or other political subdivisions of the state

as personal property taxes, or as license fees or excise taxes for the following privileges:

(1) Operating as personal property brokers or brokers as defined in the Personal Property Brokers Law provided for in Division 9 (commencing with Section 22000) of the Financial Code.

(2) Engaging in the business of loaning money, advancing credit, or loaning credit or arranging for the loan of money or advancing of credit or loaning of credit.

(3) Storing, using or otherwise consuming in this state of tangible personal property by savings and loan associations.

(b) The offset allowed to any financial corporation for any income year as provided in this section may, at the election of that financial corporation, be offset, in whole or in part, against its franchise tax for that income year or offset in whole or in part against its franchise tax in one or more of the next four succeeding years of its selection, until such time as the total amount of such offset is so utilized; provided, however, that for such purposes, offsets elected to be utilized against the franchise tax of a succeeding year shall be applied in the order of their respective years of origin and prior to the application of the offset which might otherwise be allowable for amounts paid during that income year.

(c) Notwithstanding anything to the contrary contained in this section, the tax on financial corporations after the allowance of all offsets provided for herein shall be not less than 7.6 percent of its net income for the preceding income year nor less than the following minimum tax:

(1) In the case of financial corporations, other than credit unions whose gross income is twenty thousand dollars ($20,000) or less, one hundred dollars ($100).

(2) In the case of credit unions whose gross income is twenty thousand dollars ($20,000) or less, twenty-five dollars ($25).

(d) For purposes of this section, with respect to calendar or fiscal years ending after June 30, 1973, the tax on financial corporations after the allowance of all offsets shall not be less than 9 percent of its net income nor less than the minimum tax as provided by subdivision (c).

(e) For income years beginning after December 31, 1971, the one hundred dollars ($100) specified in paragraph (1) of subdivision (c) shall be two hundred dollars ($200) instead of one hundred dollars ($100).

(f) Any offset which a financial corporation was entitled to apply against its franchise tax for the 1979 income year but which could not be applied during such income year because of the limitations otherwise set forth or because such amounts were not paid because they were contested or not timely assessed, shall be applied, in whole or in part, against its franchise tax for the 1980 income year, and any unused offset shall be applied in like manner against its franchise tax for the next five succeeding income years.

(g) Notwithstanding anything to the contrary contained in this

section, the tax on financial corporations after the allowance of all offsets provided for herein shall not be less than the tax on net income provided by Section 23151, or the minimum franchise tax.

SEC. 17. Section 23186 of the Revenue and Taxation Code is amended to read:

23186. (a) The rate of tax on banks and financial corporations shall be a percentage equal to the percentage of the total amount of net income, allocable to this state, of every corporation taxable under Section 23151 or subdivision (c) of Section 23151.1 or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, for the next preceding calendar year or fiscal years ended during such calendar year, required to be paid to this state as franchise taxes according to or measured by such net income, and required to be paid to this state or its political subdivisions by such corporations as personal property taxes and business license taxes during the preceding calendar year or fiscal years ended in such calendar year; provided, however, that said rate of tax shall not exceed 13 percent. The percentage of the net income of every corporation taxable under Section 23151, or subdivision (c) of Section 23151.1, or paragraph (1) of subdivision (d) of Section 23151.1, as the case may be, other than public utilities as defined in the Public Utilities Act, required to be paid to this state or its political subdivisions in personal property taxes and business license taxes shall be determined by ascertaining the ratio which the total amount of such personal property taxes and business license taxes, less 9 percent thereof, bears to the total amount of net income of such corporations allocable to California, increased by the amount of such personal property taxes and business license taxes; provided, however, that if any such corporation sustains a net loss allocable to California the personal property taxes and business license taxes required to be paid by such corporation to this state or its political subdivisions during the preceding calendar year or fiscal years ended during such calendar year shall be considered for the purpose of determining such ratio only to the extent which such personal property taxes and business license taxes exceed such net loss allocable to California.

(b) With respect to the 9 percent rate of tax referred to in subdivision (a):

(1) For calendar or fiscal years ending in 1978, the rate of tax shall be 9.25 percent.

(2) For calendar or fiscal years ending in 1979, the rate of tax shall be 9.5 percent.

(3) For calendar or fiscal years ending in 1980, the rate of tax shall be 9.75 percent.

(4) For calendar or fiscal years ending in 1981, the rate of tax shall be 10 percent.

(5) For calendar or fiscal years ending in 1982, the rate of tax shall be 10.25 percent. The 10.25 percent rate specified in this paragraph shall be 10 percent if the combined Bank and Corporation Tax

revenues collected in the 1978–79 fiscal year through the 1980–81 fiscal year, inclusive, total more than seven billion four hundred twenty million dollars ($7,420,000,000).

(6) For calendar or fiscal years ending in 1983, the rate of tax shall be 10.25 percent. The 10.25 percent tax specified in this paragraph shall be 10 percent if the combined Bank and Corporation Tax revenues in 1978–79 fiscal year through 1981–82 fiscal year, inclusive, total more than ten billion five hundred twenty million dollars ($10,520,000,000).

(7) For calendar or fiscal years ending in 1984 and thereafter, the rate of tax shall be 10 percent.

(c) The amendments to subdivision (a) made by the 1977–78 Legislature shall apply to income years ending in 1980, and thereafter.

SEC. 18. Section 23400 of the Revenue and Taxation Code is amended to read:

23400. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year (as defined in Section 23041), with respect to the income of every taxpayer under this part, a tax equal to 5 percent of the amount (if any) by which the sum of the items of tax preference is greater than the sum of the amount of net loss for the income year.

(b) With respect to taxpayers subject to Article 4 of Chapter 2 (commencing with Section 23101) of this part, the provisions of Articles 4 to 9, inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(c) For the purposes of computing the tax on items of tax preference for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, the provisions of Sections 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, 23504 and 25401 shall be applied with due regard for the rate and tax preference amounts prescribed by this chapter.

(d) Notwithstanding subdivision (a), for income years beginning on and after January 1, 1978, taxpayers who have excess percentage depletion tax preference income with respect to oil and gas, shall be subject to a tax at the rate of 2½ percent on such tax preference income, to the extent such tax preference income exceeds thirty thousand dollars ($30,000) per year.

SEC. 19. Section 26482 is added to the Revenue and Taxation Code, to read:

26482. (a) One-half of the taxes estimated to be collected which are attributable to the excess of the bank tax rate over the general tax rate provided in Section 23151 for income years ending in 1980 shall be transferred by the Controller from the General Fund to the Financial Aid to Local Agencies Fund, which is hereby created.

(b) The Legislative Analyst, Department of Finance and Franchise Tax Board shall estimate the amounts to be deposited in such fund on or before January 15, 1980, and on or before January 15

of each year thereafter. The amounts in such fund shall be adjusted annually to reflect the latest bank tax rate as determined by the Franchise Tax Board.

SEC. 20. Section 26483 is added to the Revenue and Taxation Code, to read:

26483. All money deposited in the Financial Aid to Local Agencies Fund is hereby appropriated, subject to the provisions of the Budget Bill.

On or before the last day of June, and on or before the last day of December, of each fiscal year, 64 percent of the balance in the Financial Aid to Local Agencies Fund shall be allocated by the Controller to the cities, and 36 percent to the counties, in the following manner and amount:

(a) For the June allocation, one-half of the amount to be allocated to the cities shall be distributed to each city in the same proportion that the amount of unemployment benefits paid during January, February, and March to all residents of each city bears to the total amount of unemployment benefits paid during January, February, and March to all residents of all cities; and one-half shall be distributed in the same proportion that the amount of AFDC benefits during January, February, and March to residents of each city bears to the total amount of AFDC benefits paid during January, February, and March to all residents of all cities.

For the June allocation, one-half of the amount to be allocated to counties shall be distributed in the same proportion that the amount of unemployment benefits paid during January, February, and March to all residents of each county bears to the total amount of unemployment benefits paid during January, February, and March to all residents of California; and one-half shall be distributed in the same proportion that the amount of AFDC benefits during January, February, and March to residents of each county bears to the total amount of AFDC benefits paid during January, February, and March to all residents of California.

(b) For the December allocation, the same procedure shall be followed as for the June allocation, but "July, August, and September" shall be substituted for "January, February, and March."

(c) A city or county may transmit all or any part of its proceeds pursuant to this section to any special district, school district or community college district which exists in whole or in part within its boundaries.

(d) For purposes of this section a city includes a city and county.

SEC. 21. (a) The provisions of this act relating to increases in the rate of tax, as provided in the amendments to Sections 23151 and 23181, shall be applied in the computation of taxes on or measured by net income for the years prescribed in such sections. Bank and corporation returns required to be filed (without regard to any extension) on or after August 15, 1978, shall use the rate prescribed by applying Section 24251 of the Revenue and Taxation Code. Bank and corporation returns required to be filed in 1978 (without regard

to any extension) prior to August 15, 1978, shall use the rate in effect as of December 31, 1977, and any additional tax due as a result of the rate increase provided by this act shall be due and payable within 30 days after the Franchise Tax Board mails a notice and demand of the amount payable.

(b) Estimated taxes due and payable after July 15, 1978, shall reflect the rate increases provided by this act in accord with instructions provided by the Franchise Tax Board which take into account the method prescribed in Section 24251.

SEC. 22. Sections 1 to 4, inclusive, and Section 6 shall apply to computations made for the 1978–1979 fiscal year and fiscal years thereafter.

SEC. 23. Section 5 and Sections 7 to 12, inclusive, shall apply with respect to taxes imposed for and reimbursements claimed for the 1978–1979 fiscal year.

SEC. 24. Sections 19 and 20 shall be operative January 1, 1980.

SEC. 25. This act shall be repealed on June 7, 1978, unless the proposed constitutional amendment known as the "Jarvis-Gann Initiative" is rejected by the voters.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act must take effect immediately in order to become operative before the commencement of the 1978–79 fiscal year.

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State January 11, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1977–78 Regular Session, except for Joint Rules 51, 55, 61, and that provision of 62(a) requiring notice of a hearing of a bill be published in the Daily File, be, and the same are hereby adopted as the Joint Rules of the Senate and Assembly for the 1977–78 First Extraordinary Session.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 2—Relative to final adjournment of 1977–78 First Extraordinary Session of the Legislature.

[Filed with Secretary of State April 25, 1978.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the 1977–78 First Extraordinary Session of the Legislature of the State of California shall adjourn sine die on adjournment on April 24, 1978.
